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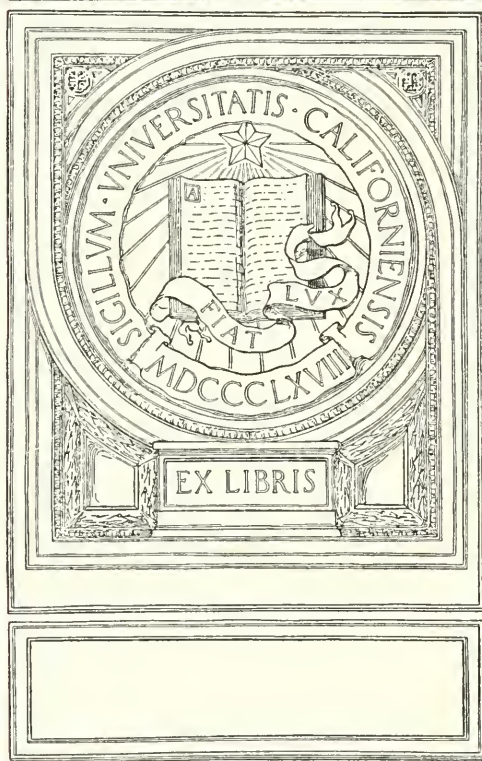
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AT LOS ANGELES



QUEENSLAND.

CORRESPONDENCE

RESPECTING THE

RESERVED BILL

FOR

ABOLITION of the LEGISLATIVE COUNCIL.

*Presented to Parliament by Command of His Majesty.
April, 1922.*



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1922.

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QUEENSLAND.

CORRESPONDENCE RESPECTING THE RESERVED
BILL FOR ABOLITION OF THE LEGISLATIVE
COUNCIL.

No. 1.

The Governor to the Secretary of State.*(Received 10th January, 1922.)*

GOVERNMENT HOUSE,

BRISBANE,

1st December, 1921.

SIR,

I have the honour to forward herewith for the signification of His Majesty's pleasure thereon, a Parchment copy of a Bill to Amend the Constitution of Queensland by Abolishing the Legislative Council ("The Constitution Act Amendment Bill of 1921"), which passed through both Houses of the Parliament of Queensland in their recent Session. I also transmit 20 copies of the Bill and for convenience of reference a full report on the debate which took place on the 24th, 25th and 26th October, extracted from the Hansard Report. (Enclosure 2.)*

2. The Bill as originally introduced was intended to abolish by its second clause the Legislative Council, membership of that Council, and all Offices in or in connection with it, and to make Parliament consist of The King and the Legislative Assembly only. The third clause, subsequently removed from the Bill as explained below, established a standing Revisory Committee of the Legislative Assembly to ensure that the provisions of any Bill were a clear expression of the will and intention of Parliament, and that so far as it dealt with existing legislation, it dealt with it clearly and effectively. The fourth clause, which subsequently became the third, was to preserve to existing members during life, or for a period to be notified, certain privileges, of which the principal were a free railway pass, and the use of the Parliamentary Library. The fifth clause, which subsequently became the fourth, repealed enactments or privileges inconsistent with legislation by a Parliament constituted as was to be provided for by the second clause.

3. The first debate on the Bill (pp. 1729 to 1744 of Hansard Report) was on the Premier's motion in the Legislative Assembly on October 24th that the Committee of the whole House should consider the desirableness of introducing the Bill. In this debate the two sections of the Opposition took different lines, the Country Party, which constitutes the larger section, accepting the abolition of the Council with a view to the substitution therefor of an elective body on a restricted franchise, and the Nationalist Party desiring to retain the

* Not printed.

Council, and to reform it on an elective basis with an adult franchise. The Country Party made clear that their acceptance of the proposal for abolition was to get rid of the difficulty and delay which a Council with a hostile majority would, in the event of a change of Government, interpose in the way of reform. They did not make equally clear how they would restrict the franchise for the election of the Council, though they stated that it was to be open to every adult resident British subject having the qualification of a real interest in the State by payment of rates, taxes, rent or otherwise. The Nationalist Party thought the reconstitution of a Council would be more difficult to effect than its reform, and that a vote for abolition would show hostility to the bicameral system, in which system they strongly believed as a guarantee against hasty and ill-considered legislation, and would further be in opposition to the direct vote of the people, which by a majority of close on 63,000 had shown itself against abolition when the question had been referred to them in 1917. They proposed that the reformed Council, elected by adult franchise, should consist of 30 members, three from each of the 10 federal electoral divisions, and that it should have the same powers as now. Both sections of the Opposition voted against the closure of the debate, which the Government carried on two occasions by 35 to 33 votes. The Country Party amendment was supported by their full strength of 21 (less 1 absent), and opposed by 35 of the Government and 5 of the Nationalist Party, the other Nationalists not voting. The Nationalist Party's amendment was defeated by 45 votes (35 Government and 10 Country Party) to 15 (13 Nationalists and 2 Northern Country Party), and the Government resolution to consider the Bill was carried against the same minority by 52, consisting of 35 out of the 37 Government, and 17 out of the 21 members of the Country Party. The first reading was carried by 51 votes to 14.

4. On the following day the Premier moved the second reading in a speech (pp. 1772-1780 of Hansard Report), in which he said that the Legislative Council, introduced as a check on democracy, was either an obstruction to the Assembly, in which case it was an evil, or an echo of that body, in which case it was a superfluity. It might be the former if the Council were elected on a restricted franchise, against which Mr. Theodore quoted authorities and warnings, or if, owing to a longer tenure of Office, the Council differed in its political character from the Assembly, and it might be the latter if there were no such difference in constitution or tenure. With appeals to the people not less than once in three years there could be no danger to their interests in a unicameral system. He then went on to state that the abolition of the Council played a very prominent part in the election campaign of the Labour Party in 1915, when they swept the polls. There was no campaign before the 1917 referendum in the matter, the party being then engaged on the federal election which took place on the same day. At the referendum also the question was not clearly put, and the matter was further confused by the action of the Licensed Victuallers' organisations in connection with a poll for the reduction of licences also

held on that day. At any rate, when the same question of abolishing the Council was made a prominent issue in the 1918 campaign the policy was unanimously endorsed, and in the 1920 election, when the Nationalist and the Country Parties came out with a policy of Council reform, 38 out of the 72 constituencies endorsed the Labour Party's programme, which included abolition. Dealing next with the constitutional aspect, the Premier pointed out that since the passing of the 1908 Constitution Amendment Act, held by the High Court of Australia to be a valid and effective Act of Parliament, a simple majority in both Houses could amend the Constitution Act, and this opinion was supported by the decision of the Privy Council in the *McCawley* case that no special formalities were required in order to secure an effective amendment of the Constitution. The Premier maintained that though the abolition of the Legislative Council was an innovation in Queensland, it was not so elsewhere—that seven out of the nine provinces of Canada had single Chambers—that in South Africa the Provincial Councils were unicameral—that the complete abolition of the House of Lords had been seriously contemplated in England. He dismissed the argument of the alleged danger to the community from the abolition, by pointing out that generally the policy of Governments was held by Oppositions to be dangerous and pernicious, but a majority party was bound to carry its policy into effect if it was honest and courageous. He held that the interests of the people would be as well safeguarded by a Parliament consisting on one Chamber, as by a Parliament consisting of two Chambers, and that there would be in favour of the former system an advantage, inasmuch as legislation could be dealt with with despatch, without delay, and with less expense. While the Council had from time to time made alterations in legislation, some of them perhaps beneficial, these alterations had been more or less verbal, and provision was made in the Bill for a standing Advisory Committee, which would perform all the useful functions of the Council in that direction. In the past the Council had done more harm by their amendments than good. He absolutely and emphatically denied the allegation that the Abolition Bill had been introduced at the present juncture at the instigation of any Labour Conference, and he appealed to those members of the Opposition, who had stated at one time or another that they would like to see the Council abolished, to support the Bill. On the statement that had been made that the Bill was only being introduced because it was known that the Governor would not assent to it, the Premier stated that, under the provisions of the Australian States Constitution Act of 1907, the Governor must reserve the Bill for the signification of His Majesty's pleasure, and expressed the hope that the politicians within or without Parliament would not attempt to influence the King in the exercise of his discretion as regards assenting to the Bill. It was not for the Imperial Authorities to consider whether what the Queensland Parliament proposed to do with respect to the abolition of the Legislative Council was a wise course; that was a matter for the Parliament itself in the first instance, and then for the electors, who could correct what they might consider to be a mistake, on the next appeal to the people. There was not the

slightest ground for any interference on the part of the Imperial Authorities, and, in his opinion, it was inconceivable that the Imperial Authorities would interfere. (A prominent member of the Nationalist Party interjected by saying that he quite agreed with the Premier that they should settle their own affairs.) The Premier concluded by referring to Lord Carnarvon's despatch, dated the 27th March, 1877, from which he inferred that there was to be no exercise of the prerogative to withhold assent to a Bill that dealt with a subject of purely internal concern, and expressed the hope that the Bill would not only pass through Parliament in a constitutional way, but that it would receive assent when it was reserved for the signification of His Majesty's pleasure. He moved the second reading.

5. The Leader of the Country Party (Mr. Vowles, p. 1780) followed by justifying his Party in voting for the Bill, in spite of the 1917 referendum, by the change that since then had been made in the constitution of the Council which resulted in their being dominated by an outside authority. He gave an assurance that it was not his intention as leader of the Country Party to send any Memorial against the Bill to the Secretary of State for the Colonies. He was, indeed, going to vote in favour of clause 2, which provided for the abolition of the Council, but against clause 4, which rewarded the persons who had been put into the Upper House for their political perfidy by giving them privileges for the whole of their lives. The Leader of the Nationalist Party (Mr. Taylor, p. 1782) did not contest the constitutionality of the proceedings by which it was proposed to abolish the Council. He took, however, the strongest possible objection to the proposal to give free railway passes and other advantages for life to those who went into the Legislative Council with the specific object of abolishing it at the earliest possible moment. He also objected to the provision in the Bill to appoint a Revisory Committee, who would no doubt receive payment in addition to their Parliamentary salaries. He disputed the Premier's suggestion that the question of abolition had not been clearly put to the people at the time of the 1917 referendum, when they were told to say whether they voted for or against the abolition Bill, and decided by 179,105 votes to 116,196 against it, 61 or 62 of the 72 Queensland electorates thus negating the proposal. He claimed that there should be a further referendum now to decide the matter. Like other members, he thought that they should settle their own national matters, and not have recourse to Great Britain with regard to them. A similar view was expressed by Mr. Corser (p. 1784), a Country Party member, who stated that he would sooner see this legislation carried into effect even if it were twice as objectionable than that assent should be withheld to it on the advice of the Colonial Office. He also objected to the privileges to be given to existing members of the Council and to the clause of the Bill dealing with revision of Bills before assent. A prominent member of the Nationalist Party, Mr. Elphinstone (p. 1787), who was desirous of seeing the abolition of the Council so that the decks might be clear when the Opposition assumed power in the Assembly, held that a revising Chamber was absolutely essential until

much of the present power of the State legislature had been usurped by the Commonwealth Parliament. It had been made more so by the recent trend of events which showed an outside control of Parliament, in the direction of a system of socialisation of industry and exchange. He explained the Nationalist Party's proposal for converting the Legislative Council into an elective body, with three members elected for each of the Federal electoral areas, the Legislative Assembly being reconstituted at the same time with six State electorates in each Federal one. The broader area for the Council electorate would ensure a difference in point of view between the members of the Council and of the Assembly. Another member of the Nationalist Party (Mr. Sizer, p. 1790) moved that instead of being read a second time the Bill should be "referred to the people by means of a referendum, for the purpose of securing a definite expression of their will." The motion was duly seconded and supported by the speeches of several members. In one of these speeches (p. 1794) there was set against the Premier's reference to unicameral constitutions the contrary instances afforded by the new constitutions in Germany, Poland, Czecho-Slovakia and Jugo-Slavia, as well as the fact that democratic Norway, Switzerland, Denmark and Sweden had the bicameral system. The right of veto of the Dominions Parliament in Canada and in the Union Parliament of South Africa over the legislation of the Provincial Parliaments in the former and Provincial Council in the latter, made these different to the position of the Australian States, which were more in that of the United States, each of which had its two Chambers. The same speaker (Mr. Swayne) stated that with the abolition of the Council the provision for a referendum would be lost. After some further repetition of the arguments of the leaders the debate was closed, and Mr. Sizer's amendment negatived by 35 votes to 34 in each case. The second reading of the Bill was carried by 39 votes to 30, the majority including 4 and the minority 17 members of the Country Party (p. 1798).

6. The two sections of the Opposition voted together against the motions for closure which punctuated the committal, the committee and the third reading stages of the Bill (pp. 1799 to 1811). For the first—the short title clause—35 of the Government and 8 of the Country Party voted against 13 of the Nationalist and 9 of the Country Party. For the second and main operative clause 35 of the Government and 16 of the Country Party voted against 13 of the Nationalist and 2 Northern Country Party. The third clause providing for the revision of bills before assent was dropped without division. On the fourth, which retained for existing members of the Council certain privileges, the two sections of the Opposition united, as they did also on the 5th or repeal clause, but they were defeated by 34 votes to 30 on the former and 34 to 28 on the latter clause. The schedule was carried by 38 votes to 16, both the majority and the minority including 4 of the Country Party. On the third reading the voting was 36 Government and 10 Country Party against 11 Nationalist and 6 Country Party.

7. There was no long debate in the Council except on the second reading, which the Secretary for Mines (Mr. Jones, p. 1769) introduced in a short speech faintly reflecting the arguments advanced by the Premier in the Assembly, and stating that the Council had been obstructive in the past, was ineffective at the present time, and had never been and was not now a revisory body. He quoted the divisions on the Bill in the Assembly as making it useless for him to argue the matter. Six members of the Opposition spoke against the Bill. Mr. Leahy (p. 1824) laid stress on the 1917 referendum, attempted to explain the voting in the Assembly, referred to the general consensus of the countries of the world in the advisability of bicameral Parliaments, quoting the United States of America, Brazil, Ulster, New Zealand, &c., and maintained that a party had been introduced into the Council for the express purpose of destroying it, and that its abolition had been dictated by a body outside Parliament. He concluded by arguing that if there were only a single chamber it would be able to do what it thought fit, to prolong the life of Parliament indefinitely, to raise the salaries of members, to prevent the Auditor-General giving reports, to control the judiciary, and to carry out the instructions of the Labour Conference. Dr. Taylor (p. 1828) rehearsed the constitutional reasons given against the abolition of the Council when a Bill with that object was introduced in 1917. These reasons, in so far as they at present apply, are set forth in paragraph 11 of the Memorial which forms Enclosure 3 to this despatch. Mr. Brentnall (p. 1834) introduced no new arguments into the debate. Mr. O'Shea (p. 1848) claimed that the Council had been helpful in the past, and announced that he would move an amendment in Committee to submit the Bill to a referendum. Mr. Hawthorne (p. 1852) also dwelt on the referendum of 1917, referred to the proceedings of the Privy Council with reference to the former Abolition Bill, and suggested that the Bill would not be assented to by His Majesty. Mr. Fowles (p. 1853) considered that the constitutional point whether the Parliament could abolish the Legislative Council had not been settled by the Judicial Committee of the Privy Council which in 1918 had not been called upon to settle it as the question was then an abstract one owing to the fact that the Bill which proposed to abolish the Legislative Council had been rejected at a referendum. He was inclined to think that the Home Authorities might treat the matter in the same way as they had done the proposal to abolish the Governor, that is to wait before giving a decision until the matter was brought up in all the States affected. Mr. Fowles stated also that there were very few cases in the civilised world where they had not the bicameral system, and quoted Mexico and Bulgaria as such cases. No public desire had been expressed and no mandate given for the abolition against which there were a variety of arguments which he briefly summed up. One Labour member, Mr. Page-Hanify (p. 1830) spoke against the Bill because it had been separated from the Initiation and Referendum Bill which he stated had always been associated with the abolition of the Council in the Labour programme. He thought that one chamber without such control by the people as the Initiation and Referendum Bill

secured would be dangerous. It was not right, in his view, to legislate contrary to the result of the 1917 referendum, nor to legislate with what he described as unseemly haste.

8. Seven members of the Labour Party in addition to the Minister, spoke in favour of the Bill. Mr. Collings (p. 1836) read the pledge which bound Labour members on all questions affecting the party platform to vote as a majority of the Parliamentary Labour Party might decide. (See Appendix B to Enclosure 4 to this despatch.) He looked on the whole procedure of the Council as wasteful of time and money and that the abolition of the Council would be a start in the right direction and that the example would ultimately be followed throughout Australia. Until the Council had been rendered ineffective two years ago the Labour Government had not legislative control of the country and they had not yet, owing to the way that administrative offices had been filled by former administrations, complete administrative control. Complete control by the Labour Government might result in the social reconstruction, which would entail the horrors of civil war in other countries including Ireland and Britain, being brought to its culmination in Australia by the peaceful methods of evolution. Mr. Bedford (p. 1840) followed with a republican speech, quoting "A Plea for Parliamentary Government" by Edward Mellant. Mr. Finlayson (p. 1842) in a speech, marred by the way in which it was interrupted, spoke of the uselessness of a body which could be manipulated to serve any particular end or any particular party. The best argument in favour of the abolition of the Council was that the people were demanding the opportunity to get to close grips with the essential things of life, to get rid of all those things which interfered with their being able to accomplish what they desired. The speeches of Mr. Sumner, Mr. Colborne, Mr. Dunstan and Mr. Thompson were of less interest than those quoted. The second reading was carried by 28 votes to 10, the former number representing all except two of the Labour Party and the latter only about one-third of the 28 members in the Upper House constituting the Opposition.

9. In Committee (pp. 1857 to 1862) the amendment proposed by Mr. Fowles that the Act should not come into operation until its provisions had been duly submitted to and ratified by a referendum of the electors of Queensland was defeated by 27 to 9, and one by Mr. O'Shea embodying all the clauses of the popular Initiation and Referendum Bill was ruled out of order. The main operative Clause 2 was then passed without further division. Clause 3, retaining for members of the Council their existing privileges, was passed by 28 votes to 6, and Clause 4 with regard to repeals was passed without discussion. Mr. Leahy moved the postponement of the third reading for six months for the reasons which are embodied in the 11th paragraph of the Memorial forming Enclosure 3 to this despatch. The amendment was negatived by 28 votes to 8 (p. 1863).

10. On the 3rd November the Attorney-General in reply to my question reported that in his opinion I was required under the provisions of

“ The Australian States Constitution Act, 1907,” to reserve the Bill for the signification of His Majesty’s pleasure. On the 10th the notification that I had so reserved it was published in the Government Gazette.

11. On the 3rd November the Memorial which forms Enclosure 3 to this despatch was presented to me by the nine members of the Legislative Council whose names are appended to it. Four of them had not, for one reason or another, voted when the Bill was before the Council, and five members of the Council who did vote had not signed the Memorial. It sets forth the history of the attempted legislation which led up to the referendum of the 5th May, 1917, and the result of that referendum. It refers to the decision of the Privy Council in March, 1910, as leaving unsettled the question of the validity of any Act which purported to abolish the Legislative Council. It deals with the “ swamping ” of the Legislative Council on the 19th February, 1920, and qualifies this proceeding as the more unjustifiable inasmuch as the Parliamentary Bills Referendum Act of 1908 had been enacted for the express purpose of preventing or overcoming deadlocks between the two Houses. It examines the result of recent elections as exhibiting the Government’s position in the country. It calls attention to the arguments against the Council’s abolition contained in the Legislative Council’s resolution of the 8th December, 1915, of which the substance is given on pages 1829 and 1830 of the Hansard Report of the 26th October, 1921,* which is one of the enclosures to this despatch. These reasons are partly repeated towards the end of the Memorial which concludes with the following three petitions :—

- (1) That no further action be taken until the will of a majority of the electors on this question be ascertained by a specific referendum or by a general election.
- (2) That in the alternative the validity of the proposed Act of abolition be referred to the Judicial Committee of the Privy Council for decision under the provisions of 3 and 4 William IV, cap. 41.
- (3) That in the event of the validity of such Queensland Act of abolition being for any reason upheld, final action thereon be suspended until either by specific referendum or at a general election the will of the people of Queensland be ascertained.

12. On the 14th November there was presented to me a further petition which forms Enclosure 4 to this despatch. The six signatories are, according to its second paragraph, the Executive Officers of a Constitution Defence Committee which in 1917 undertook the campaign throughout the State in opposition to the Government’s abolition proposal. Two of them—Mr. Whittingham and Mr. Fowles—are members of the present Legislative Council and are signatories to the Memorial referred to in the preceding paragraph. Mr. Leahy, who also signed it, is another member of that Council. Sir Robert Philp, as you know, was Premier from December, 1899, to September,

* Not printed.

1903, and from November, 1907, to February, 1908, and Sir Alfred Cowley was Secretary for Public Lands from 1890 to 1893 and Speaker of the Legislative Assembly from 1894 to 1898. The petition deals with the referendum and the subsequent elections and in more detail than the Memorial with the "swamping" of the Legislative Council. It refers to public meetings and conferences of protest being held throughout the State. It explains how some of the 35 members of the Opposition in the Legislative Assembly, though in favour of a retention of the bicameral system, came to vote for the abolition of the present Council and it associates the Petitioners with the Legislative Council's resolution of December 8th, 1915, to which reference was, as I have stated, also made in the Memorial. The Petition then lays down—

- (a) That a majority in the Legislative Assembly should not be permitted to overturn the decision at the referendum ;
- (b) That no further step should be taken on this issue without consulting the electors ;
- (c) That the question affects the Federal relationship of the Commonwealth and is also of Imperial concern ;
- (d) That if the Legislative Council is abolished all domestic legislation and administration will be at the mercy of a majority of the Assembly.

It concludes with a prayer that His Majesty may be graciously pleased to withhold the assent of the Crown to the Bill.

13. The Memorial and the Petition were transmitted to the Premier for any observations Ministers might desire to make with regard to them, and in reply I have received from Mr. Theodore the document which forms Enclosure 5 to this despatch. This document, after some observations on the position of the Memorialists and Petitioners and on the contents of the Memorial and Petition, purports in the first place to show the manner in which the Legislative Council had in the past dealt with the various reform proposals of the Government sent to them after passing the Legislative Assembly, and in the second place to summarise the history of the struggle for the enactment of the Abolition Bill. The constitution, attendance and work of the Council from July, 1915, to October, 1921, are analysed with special intention of showing the little interest taken by the members of the Council, appointed before the coming in of the present Government, in its proceedings except where measures of reform were to be opposed. The efforts of the Labour Party in 1915 and 1916 to pass the present Bill is recorded, an explanation is given of the "apparently adverse vote" at the referendum of 1917, and the results favourable to the Labour Party of the elections of 1918 and 1920 are connected with the policy of abolition. The aggregate vote of electors represented by the members of the Assembly who recently voted for the main operative clause of the Bill is contrasted with the aggregate represented by those who voted against it. The argument deduced by the Opposition from the Municipal Elections which resulted in the defeat of Labour

candidates in a large majority of the Local Authority areas is countered.

This political arithmetic which fills the first half of the document would appear to be less important than the arguments on the legal aspect of the question which follow. Lord Birkenhead's judgment in the McCawley case is quoted with regard to the power of Australian Legislatures to control the constitution of their States. It is argued that the abolition of the Council in Queensland results in no disturbance of Federal relationship, sections of the Commonwealth of Australia Constitution Act being quoted to show the right and power of a State to alter its constitution pursuant to power vested in it so to do without interference from the Federal Parliament or Executive. References in this Statute to a State Parliament are evidently references to the Parliament as it is for the time being constituted, and an express reference to both Houses would, it is stated, no doubt be construed as bearing reference to the one House remaining after the bicameral system had been duly superseded. The argument that the abolition of the Council would prejudice the standing and rights of the State by reducing it below the level of all the others is held to be unworthy of serious consideration, the equal status of bicameral Quebec and unicameral Ontario being quoted in this connection. A report of the Committee of the Privy Council for Trade and Plantations on the Australian Constitution Act of 1850 is somewhat pertinently quoted with reference to the power of State legislatures to make the amendments in their own Constitution which time and experience might show to be requisite. The decision in Taylor's case that under the express power to make laws respecting the Constitution, the power exists to abolish the Legislative Council by an Act passed in accordance with the Parliamentary Bills Referendum Act of 1908 is quoted against the suggestion that the abolition of the Council would be an alteration of the provisions of the Australian States Constitution Act of 1907, which recognises the continued existence of both Houses of Parliament in each State. The more general contentions of the Memorial that the bicameral system has worked satisfactorily in Queensland, that the Bill is the ruthless act of a party temporarily in power and that Imperial interests or the status of any Colonial legislature is affected, are denied. It is stated to be the opinion of Ministers that the effective check on unjust or immature legislation is the popular will expressed at the poll when members seek re-election in confirmation of their conduct in Parliament, and that this is more effective than can be any bicameral system. Ministers submit that no useful purpose would be served by referring the question of the validity of the proposed Act to the Judicial Committee of the Privy Council for decision under the provisions of 3 and 4, William IV, cap. 41, as they consider it conceivable that the effect and validity of the abolition Act may at some future time be brought before the Judicial Committee of the Privy Council, sitting as the Court of Appeal.

They then argue that assuming that there is no objection in law to the Royal Assent, that assent ought not to be withheld; that

Imperial interests are not involved, and the matter is one of internal concern ; that the principle of self-government having been generally granted, should be interpreted generously, and that such interpretation has hitherto been attended with the happiest results. The proceedings in 1898 relating to a petition for the disallowance of a certain Bill passed by the Legislature of Newfoundland are cited, and the Secretary of State's despatch on that occasion, leading up to the conclusion that it is not the duty of Her Majesty's Government to attempt the task of deciding whether the action of the legislation is in accord with the opinion of the electors, is quoted at length. Reference is made to a more recent declaration of the same policy to be found in the decision of the Secretary of State for the Colonies declining Imperial intervention on the occasion of the disputes between the two Houses of the State of South Australia on the Veto Bill in the year 1911. The reasons deduced from the above are then summarised to show that the set rule of non-intervention ought to be applied in the present case, and the document concludes with the humble and confident submission of Ministers that the Bill to amend the Constitution of Queensland by abolishing the Legislative Council should receive the Royal Assent.

14. Some resolutions against the Bill, passed at public meetings and meetings of political bodies, have been submitted to me, and their terms are set forth in Enclosure 6. No indication has been given as to the numbers attending the meetings at which these resolutions were adopted. Some other meetings from which no resolutions have been forwarded are reported in the press. The comments in the two morning papers which are opposed to the Government, largely dealt with the divided nature of the Opposition to the Bill. From one—the *Daily Mail*—I have extracted a series of articles on the general question of the abolition—(Enclosure 7)*—and I would call your attention to the last of these articles which deals with the question of assenting to the Bill. Generally I am unable to say that there is evidence of any very strong or widespread feeling in the country against this assent being given.

15. I have sent a copy of this despatch to His Excellency the Governor-General.

I have, &c.,

MATTHEW NATHAN,

Governor.

THE RIGHT HONOURABLE

THE SECRETARY OF STATE FOR THE COLONIES, &c., &c., &c.

ENCLOSURE 1 IN No. 1.

RESERVED BILL.

QUEENSLAND.

ANNO DUODECIMO

GEORGII QUINTI REGIS.

No. .

A Bill to Amend the Constitution of Queensland by Abolishing the Legislative Council.

BE it enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Legislative Assembly of Queensland in Parliament assembled, and by the authority of the same, as follows :—

1. This Act may be cited as "*The Constitution Act Amendment Act of 1921*," and shall be read and construed with and as an amendment of the "*Constitution Act of 1867*."

2. (1) The Legislative Council of Queensland is abolished.

(2) The office of member of the said Legislative Council is abolished.

(3) All offices constituted or created in or in connection with the said Legislative Council are abolished.

(4) The Parliament of Queensland (or as sometimes called the Legislature of Queensland) shall be constituted by His Majesty the King and the Legislative Assembly of Queensland in Parliament assembled.

(5) Any reference in any Act, rule, regulation, instrument, or writing whatsoever to the Legislature, or to the Parliament, or to both Houses of Parliament, or other reference, which, if this Act had not been passed, would be deemed to include a reference to the Legislative Council, shall be construed to refer only to His Majesty the King and the Legislative Assembly of Queensland in Parliament assembled, or only to the said Legislative Assembly, as the context may require.

3. The Governor in Council may by notification published in the *Gazette* declare that the existing members of the Legislative Council shall, during life or for such period of time as is fixed in such notification, retain and continue to be entitled to exercise the privilege of a free pass upon the railways of the State and the use of the Parliamentary Library, and such other existing privileges of such members as may be mentioned in such notification. Every such notification shall have the same effect as if it were enacted in this Act.

4. All enactments or provisions contained in any Act or Order in Council relating to the Constitution of Queensland which are inconsistent with any of the provisions of this Act are hereby repealed to the extent of any such inconsistency, and for the purpose of giving due effect to this Act, but without limiting the generality of the foregoing provisions of this section, the enactments mentioned in the Schedule to this Act are amended to the extent therein indicated.

SCHEDULE.

Year and Number of Act.	Title of Act.	Extent of Amendment.
31 Vic. No. 21 	<i>Legislative Assembly Act of 1867</i>	S. 4 is repealed.
31 Vic. No. 38 	<i>Constitution Act of 1867</i>	S. 1, the words "Legislative Council and " are repealed. S. 2, the words "Council and " are repealed. The proviso is also repealed. S. 3, the words "Council and " where they thrice occur are repealed. S. 4, the words "either of the Legislative Council or "; also the words "Council and " where they twice occur are repealed. S. 6, the words "summoned or "; also the words "Legislative Council or " where they twice occur; also the words "Council or " are repealed. S. 7, the words "Legislative Council or "; also the words "summoned to the said Council or "; also the words "summons or "; also the words "Council and "; also the words "as the case may require "; also the words "Council or " are repealed. S. 8, the words "Council and " wherever they occur; also the word "respectively " wherever it occurs; also the words "the President or "; also the words "for the mode in which such Council and Assembly shall confer, correspond, and communicate with each other relative to votes or Bills passed by, or pending in, such Council and Assembly respectively and " are repealed. S. 9 is repealed.

SCHEDULE—*continued.*

Year and Number of Act.	Title of Act.	Extent of Amendment.
31 Vic. No. 38 	<i>Constitution Act of 1867</i>	S. 12, the words "Council and" where they twice occur are repealed. S. 16, for the words "both Houses of the Legislature of this Colony" the words "the Legislative Assembly" are substituted. The cross-heading before s. 20 and ss. 20, 21, 22, 23, 24, 25 and 26 are repealed. In the cross-heading before s. 41 the words "Houses of" are repealed. S. 41, for the words "Each House of the Parliament" the words "The Legislative Assembly" are substituted; for the word "either" the word "such" is substituted. S. 42, for the words "either House" the words "the Legislative Assembly" are substituted, and the words "President or" and also the words "as the case may be" are repealed. S. 43, for the words "either House" where those words thrice occur the words "the Assembly" are substituted; also for the words "the House of which he is a member" the words "the Assembly" are substituted. S. 44, for the words "either House" where they twice occur the words "the Assembly" are substituted, and the words "President or" are repealed.

SCHEDULE—continued.

Year and Number of Act.	Title of Act.	Extent of Amendment.
33 Vic. No. 38 	<i>Constitution Act of 1867</i>	S. 45, for the words "Each House of the said Parliament" the words "The Legislative Assembly" are substituted; also for the words "either House" where they thrice occur the words "the House" are substituted; and for the words "such House" the words "the House" are substituted. SS. 46 and 47, the words "President or" and the words "as the case may be" are repealed. S. 48, the words "President or" are repealed. S. 49, the words "President or" and the words "as the case may be" are repealed. S. 50, the words "President or" are repealed. S. 52, for the words "either House" the words "the Legislative Assembly" are substituted.
60 Vic. No. 5 	<i>The Constitution Act Amendment Act of 1896</i>	Schedule 1, the provisions "President of the Legislative Council £1,000 and Chairman of Committees of the Legislative Council £700" are repealed.

ENCLOSURE 3 IN No. 1.

MEMORIAL.

Presented to—

HIS EXCELLENCY,

LIEUTENANT-COLONEL THE RT. HON. SIR MATTHEW NATHAN, P.C.,
G.C.M.G..*Governor in and over the State of Queensland and its Dependencies.*

MAY IT PLEASE YOUR EXCELLENCY,

In view of the present accentuated need of safe-guarding constitutional government in all parts of His Majesty's Dominions so that loyal subjects may retain unimpaired their rights and liberties, and in further view of the extraordinary political situation in our own State, we, the undersigned Honourable members of the Legislative Council of the State of Queensland, acting for and on behalf of ourselves and others, desire most respectfully to submit for your consideration the following statement of fact and expression of our views :—

The past brief session of Parliament has been unique in the history of Queensland. The present Labour Government, representing in the aggregate a minority of voters in the recent general elections, without any definite mandate from the people and in defiance of a specific referendum, in the last fortnight of the only session Parliament held this year, by means of violent applications of the closure in the Legislative Assembly, and by means of a specially created majority in the Legislative Council, have forced through both Houses a Bill to Amend the Constitution of Queensland by abolishing the Legislative Council. This Bill now awaits the assent or otherwise of His Majesty.

The events culminating in this action, unprecedented in the whole history of Australasia, may be briefly stated :—

1. On or about the 19th day of November, 1915, the Legislative Assembly of Queensland passed a Bill entitled "A Bill to Amend the Constitution of Queensland by Abolishing the Legislative Council." On or about the 8th day of December, 1915, the Bill was rejected by the Legislative Council of Queensland by 26 votes to 3.

2. On or about the 15th day of September, 1916, the Legislative Assembly again passed the second reading of the Bill, and on or about the 15th day of November, 1916, the Legislative Council again rejected the Bill by 19 votes to 3.

3. On the 3rd day of April, 1917, His Excellency the Governor of Queensland, with the advice of the Executive Council, by proclamation in the Government Gazette, directed that the Bill should be submitted to a Referendum of the electors, under the provisions of "The Parliamentary Bills Referendum Act of 1908."

4. The specific Referendum on the question was taken on Saturday, 5th May, 1917, and the electors by 179,105 votes to 116,196—a majority of 62,909—declared against the abolition of the Legislative Council.

This vote represented 77·74 per cent. of the total electors of Queensland. A majority vote against abolition was recorded in 60 electorates out of 72 ; many of the 60 electorates being regarded as strongholds of the present dominant party. That Referendum (unparalleled in the British Dominions) was on a single clear issue, and its verdict was emphatic. No referendum on the subject has since been taken. It is submitted by us that so decisive a verdict on the part of the people cannot be ignored, and can only be set aside by another specific vote to the contrary.

5. Meanwhile, legal proceedings had been taken (24th to 28th April) before the Supreme Court of Queensland (1917 State Reports, Queensland, 208), before the High Court of Australia (1st to 4th May), and further by way of Special Case before the said High Court of Australia (August, 1917 : 23 Commonwealth Law Reports, 457), and finally in the Privy Council, 18th March, 1918, by Petition for leave to Appeal (see Report in 1918 State Reports, Queensland, pp. 194 *et seq.*). Conflicting decisions were given by the Supreme Court of Queensland, and by the High Court of Australia as to the validity of any Act which purported to abolish the Legislative Council.

The Privy Council refused leave to appeal from the decision of the High Court of Australia upon the ground that the matter was an abstract question owing to the fact that the Act which proposed to abolish the Legislative Council had been rejected at a Referendum by a large majority of the electors and could not therefore in any event come into operation. They expressly refrained from giving any opinion whatsoever as to whether the judgment of the High Court was right or wrong.

Their Lordships also indicated (through Viscount Haldane) that—

“ If this question really were to be argued, it should not be argued in a litigation affecting only one litigant, the Legislature, and only a State Legislature. There is a procedure which is open to the Crown, which is under the Act 3 and 4, William IV, cap. 41, to refer to the Judicial Committee of the Privy Council, a general question of this kind, and, when that is done, the advantage that the Judicial Committee possesses is that it can advise the Crown to mould the procedure. If that question was raised in an abstract form, we should probably direct that we should be attended by the Attorney-General of England as representing the Empire, and we should take care to secure that there should be a representation of the other parts of the Empire, so that this tremendous question which affects everyone should not be determined behind their backs.”

6. Since the Referendum vote, and out of harmony therewith, many partisan appointments to the Legislative Council have been made with the express object, as declared by the appointees themselves, of discrediting and destroying the said Council. On 5th May, 1917, the number of Councillors was 37. In October, 1917, 13 partisan

appointments were made, increasing the number of Councillors beyond all record or precedent. While the Legislative Assembly remains composed of 72 members, constitutional practice keeps the number of the Legislative Council at approximately 40. (Cf. "Todd's Parliamentary Government in the British Colonies," 2nd Edition, page 700. and Keith's "Responsible Government in the Dominions," Vol. I, Part III, Chapter VII.) On account of the grave constitutional issues involved, a representative memorial was presented to His Excellency Major Sir Hamilton John Goold-Adams, G.C.M.G., C.B., on 9th May, 1918, and no fresh appointments were made except on 18th August, 1919, when three were appointed to bring the number up to the previous highest total of 50. In the interim between the departure of Sir Hamilton Goold-Adams and the arrival of his successor, the Lieutenant-Governor adopted the surprising and extreme course of swamping the Council by making, on 19th February, 1920, no less than 14 extraordinary appointments thereto of partisan nominees, such drastic and wholesale appointments being made not for the purpose of ordinary or justifiable legislation, but solely that the Government might force the abolition of the Legislative Council. (See "Parliamentary Reports," H.C. 198, 1893-4, p. 74.)

Such swamping was the more unjustifiable inasmuch as the Parliamentary Bills Referendum Act of 1908 was enacted for the express purpose of preventing or overcoming deadlocks between the two Houses, and any Bill, or Bills, twice passed by the Assembly and rejected twice by the Council, can be settled by referendum in accordance with the provisions of the said Act. This Act, unique in Australasia, supplies a safety-valve for the Constitution, and renders swamping unnecessary and obsolete (Cf. Keith, "Responsible Government in the Dominions," Vol. 2, at page 586).

7. A party campaign for the abolition of the Legislative Council was projected by the Government in June, 1919, and a large sum of money was appropriated from the public funds for that object. Although approximately £13,000 was distributed as "allowances" among members of the Legislative Assembly, the campaign itself completely failed, and after one or two meetings the whole project was abandoned.

8. At the General Election of 6th March, 1918, the then Labour Government were returned to power by a majority of 24 votes in an Assembly of 72. At the General Election on 9th October, 1920, their majority dwindled to 4, and the present strength of parties in the Assembly is Labour Government 37 (including the Speaker) and Opposition 35. Owing to unjust disproportion of votes in constituencies (numbers varying from 2,000 to 12,000) the Government, though in a majority in the Assembly, are in a minority in the country, the majority vote against them aggregating over 20,000.

9. No question arises as to a quorum, or the obstruction of legislation in the Legislative Council.

10. On 8th December, 1915, a resolution embodying cogent arguments against the proposed abolition of the Council was passed by the Legislative Council, and forwarded to His Excellency the Governor for transmission to the Right Honourable the Secretary of State for the Colonies, for submission to His Majesty the King (see "Hansard," Vol. cxxii, pp. 2717-2719). The arguments therein set forth have even greater weight under the present circumstances, when the proposed abolition is not by the will of the people nor by the authority of the Imperial Parliament.

11. Since May, 1917, the Government has not in any way referred the matter of abolishing the Council to the electors, nor have the electors given any mandate, or preferred any request for such abolition.

We further respectfully urge upon your Excellency's consideration, the following matters :—

- (a) The question of a radical change in the State Constitution, established and working satisfactorily now for nearly sixty years, demands a broader justification than the reckless act of any party temporarily in power. It is clearly an Imperial question calculated to affect the status of all Colonial Legislatures under what may become a federated Empire.
- (b) The proviso to Article 22 of the Order in Council of the 6th June, 1859, impliedly shows that there could be no abolition, by the Queensland Parliament, of the Legislative Council, inasmuch as express provision is made for the reservation of a Bill altering the Constitution of the Legislative Council, by making it wholly or partly elective, and it is scarcely possible to conceive the absence of such a provision with respect to a Bill having the wider effect of the abolition of the Council if such were contemplated as part of the powers of the Queensland Legislature.
- (c) Since all the other States of the Commonwealth retain the bicameral system, its destruction in Queensland would fatally prejudice the standing and rights of this State, reducing it below the level of all the others, and dislocating the provisions by which due representation in the Federal Parliament is secured to Queensland.
- (d) Some revising Chamber is necessary in order to obtain equity, harmony, and consecutiveness in legislation, as a single Chamber, unbridled and acting before election heat has time to cool, is tempted to force measures through that are partisan, haphazard, and due to momentary impulse. No alternative proposal for a second Chamber, whether elective or otherwise, has at any time been submitted to this Council by the Legislative Assembly.
- (e) The abolition of the Legislative Council would remove all checks upon the dominant party for the time being, in

the Legislative Assembly by referendum or otherwise, and the people would be robbed of their right of appeal.

- (f) The abolition of the Legislative Council would place the Judiciary and the Land Court at the mercy of the dominant party in a single Chamber Legislature: and would shake the security of tenure of officers such as the Auditor-General, the Commissioner for Railways, and the Commissioner of Police, whose duties are such that they should be freed from all political temptation or menace.
- (g) The Commonwealth of Australia Constitution Act (an Imperial Statute) recognises the continued existence of both Houses of Parliament of each State: also the Australian States Constitution Act of 1907 recognised the continued existence of both Houses of Parliament of each State of the Commonwealth of Australia. The Legislature of the State of Queensland has no warrant or authority to alter any of the provisions of these two before-mentioned Imperial Statutes, and effect could not be given to them if the Legislative Council were abolished.
- (h) In the present world-wide turmoil, industrial, political, racial, and otherwise, there appears to be need rather for strengthening than for undermining any of the constitutional safeguards in any part of the Empire.
- (i) The Legislative Council acts as the permanent co-trustee of the public safety and welfare, and no valid reason has been adduced why the Queensland community, an integral part of the Empire, should be deprived of such protection.

At this critical time in the history of Queensland and with due regard to the present and future welfare of the State, we most respectfully desire to submit the foregoing facts and opinions to your Excellency's consideration, and in view of the grave constitutional issues involved, we beg to present to your Excellency the following alternative petitions, and pray that your Excellency may be graciously pleased to grant them favourable consideration:—

1. That no further action be taken until the will of a majority of the electors on this question be ascertained by a specific referendum or by a general election.
2. That in the alternative the validity of the proposed Act of Abolition be referred to the Judicial Committee of the Privy Council for decision under the provisions of 3 and 4 William IV, Cap. 41.
3. That in the event of the validity of such Queensland Act of Abolition being for any reason upheld, final action thereon be suspended until either by specific referendum or at a general election the will of the people of Queensland be ascertained upon so far-reaching and vital a proposal.

Your petitioners further pray that your Excellency will be pleased to transmit a copy of this our Memorial to the Right Honourable the Secretary of State for the Colonies for submission to His Majesty the King.

With profound loyalty to the Throne,

We have the honour to remain,

Your Excellency's dutiful and obedient servants,

A. J. THYNNE.
F. T. BRETNALL.
C. F. MARKS.
A. G. C. HAWTHORNE.
T. M. HALL.
A. H. PARNELL.
A. DUNN.
A. H. WHITTINGHAM.
E. W. H. FOWLES.

BRISBANE,
QUEENSLAND.

3rd November, 1921.

ENCLOSURE 4 IN No. 1.

PETITION

PRESENTED TO

HIS MAJESTY, GEORGE V.

By the Grace of God, King of the United Kingdom of Great Britain and Ireland, and of the British Dominions Beyond the Seas, Defender of the Faith, and Emperor of India.

MAY IT PLEASE YOUR GRACIOUS MAJESTY,

The humble Petition of those whose signatures are appended hereto being dutiful and loyal subjects of Your Majesty in the State of Queensland, Commonwealth of Australia, sheweth as follows :—

1. In the year 1917, the then Labour Government of Queensland, whose official programme included, *inter alia*, the abolition of State Governors, and the abolition of the Second Chamber in Parliament, known as the Upper House, or the Legislative Council, resolved under the provision of the Parliamentary Bills Referendum Act of 1908, to take a referendum of the electors on the question of the abolition of the Legislative Council of Queensland.

2. A meeting of citizens and electors of Queensland was held in April. 1917, for the purpose of considering what action should be taken with regard to the proposed Abolition Referendum. A Constitution Defence Committee was appointed and Your Majesty's Present Petitioners are the executive officers of that Committee.

3. The Constitution Defence Committee undertook a campaign throughout the State in opposition to the Government's Abolition proposals, and summarised their arguments for the retention of the bicameral system in a pamphlet distributed throughout the State.

4. The said Referendum was duly taken by the then Government—a Labour Government—on May 5th, 1917. It was almost a record vote, 77·74 per cent. of electors going to the polls. The number voting for abolition was 116,196: the number voting against abolition was 179,105, a majority of 62,909 in favour of retaining the Legislative Council. Sixty electorates (including many Government strongholds), out of a total of seventy-two, voted against abolition. There was a single clear issue put before electors, and the verdict was emphatic. A copy of the Government Gazette notifying the results is attached hereto marked "Appendix A."

5. Although the Labour Government in June, 1919, projected a further campaign for the abolition of the Legislative Council, and actually appropriated and distributed £13,000 from the public funds for that purpose, as "allowances" to members of the Legislative Assembly, nevertheless, the project itself failed to attract any further support, and after one or two spasmodic meetings, the Government completely abandoned the campaign.

6. Since the Referendum in 1917, there has been no referendum taken by the Government on the question, nor has the Government made it an issue at any General Election, nor has there been any public mandate or public request or appeal for the abolition of the Legislative Council.

7. At the General Election of 6th March, 1918, the then Labour Government were returned to power by a majority of 24 votes in an Assembly of 72. At the General Election of 9th October, 1920, their majority dwindled to 4, and the present strength of parties in the Assembly is Labour Government 37 (including the Speaker) and Opposition 35. At the latest General Election there was an extraordinary disproportion of votes, ranging from 2,000 to 12,000, in the various constituencies: and it so happened that the Government, although securing a slender majority in the Assembly, nevertheless, are now in a minority by over 20,000 votes if the aggregate is taken of votes cast for or against them by Queensland electors.

Since then, at the Municipal Elections held on the same Rolls throughout the State, the candidates supporting the Government policy were defeated by a majority aggregating many thousands of votes, the successful Government candidates numbering 60, and their successful opponents numbering 660.

8. Previously to 1917, the normal number of members of the Legislative Council was 40, and the maximum 45. The present Government increased appointments to 50, and on 19th February, 1920, the Lieutenant-Governor (just previously a Member of the Ministry and Speaker of the Assembly, appointed by the Government) suddenly resorted to wholesale swamping. Fourteen new Legislative Councillors were

appointed under a certain pledge, (a copy of which accompanies this our Petition, and is marked "Appendix B"), and with the object of forcing through both Houses repudiatory measures which the Government did not choose to put before electors under the provisions of the Parliamentary Bills Referendum Act of 1908, and which, therefore, could only be passed by doing violence to the Constitution. (See Keith's Responsible Government, p. 597: and Keith's Imperial Unity, p. 400.)

9. With a working majority of one in the Assembly and with a Council flooded by partisan nominees, the Government passed, during the latter half of last month, several drastic and repudiatory measures, and have now terminated a brief session by forcing through both Houses a "Bill to Amend the Constitution by Abolishing the Legislative Council." Such action is, it is submitted, not government by British constitutional rule, but misgovernment by gross abuse of emergency powers.

10. The proposed Abolition Bill, Your Majesty's Petitioners are so informed, has been reserved under The Australian States Constitution Act of 1907, 7 Ed. VII C. 7 (Keith p. 431) for the signification of Your Majesty's pleasure thereon.

11. The arbitrary actions of the present Government have evoked disapproval throughout the State, and public meetings and conferences of protest are being held. *e.g.*, as in "Appendix C," attached hereto. The date of the next general election is uncertain. Parliament has two years to run, and the present Government, by a policy of long recess, are endeavouring to live out their full term on a majority of one, and may even force a Bill through the Assembly to extend their own term to five years or longer.

12. The thirty-five members of His Majesty's Opposition in the Legislative Assembly, representing a substantial majority of the electors of Queensland, are in favour of a retention of the bicameral system. Many of the votes recorded for abolition were not given out of hostility to a second chamber, but on account of the partisan character of the latest appointees.

13. On 8th December, 1915, a Resolution embodying constitutional and political arguments against the proposed abolition of the Council was passed by the Legislative Council, and forwarded to His Excellency the Governor for transmission to the Right Honourable the Secretary of State for the Colonies for submission to His Majesty the King. (See Queensland "Hansard," Vol. CXXII, pp. 2747 to 2749.)

14. Your Petitioners desire to associate themselves with the arguments expressed in the said Resolution, and more especially desire most humbly to submit these four present considerations:—

- (a) That a majority of one member or any majority for Abolition in the Legislative Assembly should not be permitted to overturn a majority decision of 62,909 electors against Abolition, at a specific Referendum.

- (b) That since the electors of this State have already by a large majority expressed their will on this matter, no further step should be taken or countenanced without again consulting the electors of the State on this momentous issue.
- (c) That the question of Abolition is not of domestic politics only, but intimately affects the federal relationship with the Commonwealth of Australia, and, it is humbly submitted, is a matter also of Imperial concern. (Cf. Todd's Parliamentary Government in the British Colonies, p. 700, *et seq.*, and Keith's Responsible Government in the Dominions, Vol. II, pp. 569-599.)
- (d) That if the Legislative Council is abolished, all domestic legislation and administration is at the mercy of any party for the time being, who can command as at present a majority of one in an Assembly of 72 members. There is in Queensland no Federal veto or control over legislation such as exists in Canada over provincial legislation by the Dominion Government. (See British North America Act of 1867, 30 Vic. c. 3, sections 91-95.)

Your Majesty's Petitioners therefore humbly pray that Your Majesty may be graciously pleased to withhold the assent of the Crown from the said "Bill to Amend the Constitution of Queensland by Abolishing the Legislative Council."

And with profound affection for the Empire, and continued loyalty to the Throne and Person of its Gracious Sovereign,

Your Petitioners, as in duty bound, will ever pray, etc.

ROBERT PHILP.
 ARTHUR H. WHITTINGHAM.
 A. COWLEY.
 GEO. STORY.
 P. J. LEAHY.
 E. W. H. FOWLES.

BRISBANE,
 QUEENSLAND,
November 14th, 1921.

“ APPENDIX A.”

QUEENSLAND GOVERNMENT GAZETTE.

Published by Authority.

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Vol. CIX.]

WEDNESDAY, 10TH OCTOBER, 1917.

[No. 148.

HOME SECRETARY'S DEPARTMENT.
BRISBANE.

10th October, 1917.

I, the Honourable JOHN HUXHAM, Home Secretary of Queensland, do, in pursuance of the provisions of “ *The Parliamentary Bills Referendum Act of 1908*,” hereby notify that the endorsement upon the Writ, and the particulars furnished under Form 22 of the Regulations under the said Act, showing the result of the Referendum Poll taken on the fifth day of May, 1917, by William James Gall, Esq., the Returning Officer duly appointed under the said Act, on the Bill entitled “ A Bill to Amend the Constitution of Queensland by Abolishing the Legislative Council,” are as set forth in the Schedule hereto.

JOHN HUXHAM.

THE SCHEDULE.

Copy of Endorsement upon the Writ.

I hereby certify that the result of the Referendum Poll taken by virtue of the within Writ, on the fifth day of May, 1917, is as follows :—

Number of votes recorded for the Bill entitled “ A Bill to Amend the Constitution of Queensland by Abolishing the Legislative Council ”		116,196
Number of votes recorded against the Bill entitled “ A Bill to Amend the Constitution of Queensland by Abolishing the Legislative Council ”		179,105

WILLIAM GALL, *Returning Officer.*

[Form 22.]

THE PARLIAMENTARY BILLS REFERENDUM ACT OF 1908."

RETURNING OFFICER'S STATEMENT OF RESULT OF POLL.

I, WILLIAM JAMES GALL, being the Returning Officer appointed under the provisions of "*The Parliamentary Bills Referendum Act of 1908*," hereby report that the result of the polling on the fifth day of May, 1917, at the Referendum Poll taken on the fifth day of May, 1917, on the Bill entitled "A Bill to Amend the Constitution of Queensland by Abolishing the Legislative Council," is as stated hereunder, namely:—

Electoral District.	Votes Recorded for the Bill.		Votes Recorded against the Bill.		Majority For.	Majority Against.	Informal Votes.
	In Words.	In Figures.	In Words.	In Figures.			
ALBERT	One thousand and seventy seven	1,077	Three thousand three hundred and fifteen	3,315	...	2,238	30
AUBIGNY	One thousand one hundred and forty-six	1,146	Two thousand five hundred and sixteen	2,516	...	1,370	55
BALONNE	One thousand one hundred and forty-four	1,144	One thousand two hundred and fourteen	1,214	...	70	30
BARCOO	One thousand seven hundred and thirty-six	1,736	One thousand two hundred and seventy-five	1,275	461	...	29
BOWEN	One thousand eight hundred and thirty-three	1,833	Two thousand five hundred and twelve	2,512	...	679	40
BREMER...	Two thousand four hundred and eighty-one	2,481	Two thousand six hundred and sixty-one	2,661	...	180	77
BRISBANE	One thousand six hundred and sixty-nine	1,669	Two thousand and sixty-three	2,063	...	394	29
BULIMBA	Two thousand nine hundred and thirty-seven	2,937	Five thousand three hundred and seventy-seven	5,377	...	2,440	82

BUNDABERG	...	Two thousand and nineteen ...	2,019	Two thousand one hundred and twenty-two	2,122	...	103	38
BURANDA	...	Two thousand one hundred and twenty-four	2,124	Two thousand nine hundred and thirty-seven	2,937	...	813	58
BURKE	...	Seven hundred and seventy-nine	779	Six hundred and thirty-nine	639	140	...	12
BURNETT	...	One thousand four hundred and ninety-three	1,493	Two thousand six hundred and one	2,601	...	1,108	18
BURRUM	...	One thousand two hundred and ninety-eight	1,298	Two thousand and sixty-eight	2,068	...	770	76
CADENS	...	Two thousand three hundred and forty-three	2,343	Two thousand one hundred and forty-five	2,145	198	...	37
CARNARVON	...	One thousand three hundred and six	1,306	Two thousand one hundred and ninety	2,190	...	884	16
CHARTERS TOWERS	...	One thousand and seventy-three	1,073	One thousand three hundred and fifty-eight	1,358	...	285	20
CHILLAGOE	...	Nine hundred and three	903	Five hundred and twenty-five	525	378	...	12
COOK	...	One thousand two hundred and eleven	1,211	One thousand two hundred and twenty	1,220	...	9	59
COOROORA	...	One thousand three hundred and eighty-one	1,381	Three thousand one hundred and thirty-nine	3,139	...	1,758	39
CUNNINGHAM	...	Nine hundred and sixty-five	965	Two thousand five hundred and thirteen	2,513	...	1,548	17
DALBY	...	One thousand two hundred and seventy-nine	1,279	Two thousand six hundred and fifty-five	2,655	...	1,376	40
DRAYTON	...	One thousand one hundred and ninety-three	1,193	Two thousand four hundred and seventy-seven	2,477	...	1,284	43
EACHAM	...	One thousand four hundred and thirty-nine	1,439	One thousand seven hundred and eighty-eight	1,788	...	349	40
EAST TOGWOMBA	...	One thousand five hundred and eight	1,508	Two thousand six hundred and eighty-four	2,684	...	1,176	67
ENOGGERA	...	Two thousand one hundred and twenty-eight	2,128	Three thousand six hundred and forty-two	3,642	...	1,514	65

RETURNING OFFICER'S STATEMENT OF RESULT OF POLL—*continued.*

Electoral District.	Votes Recorded for the Bill.		Votes Recorded against the Bill.		Majority For.	Majority Against.	Informal Votes.
	In Words.	In Figures.	In Words.	In Figures.			
FASSIFERN ...	One thousand and sixty-seven	1,067	Three thousand one hundred and thirty-six	3,136	...	2,069	37
FTZROY ...	One thousand eight hundred and seventy-five	1,875	Three thousand and sixty-nine	3,069	...	1,194	29
FLINDERS ...	Two thousand and seventeen	2,017	One thousand two hundred and ninety	1,290	727	...	41
FORTITUDE VALLEY ...	Two thousand one hundred and seventy-four	2,174	Two thousand four hundred and ninety-six	2,496	...	322	35
GREGORY ...	One thousand eight hundred and seventy-seven	1,877	One thousand three hundred and eighteen	1,318	559	...	44
GYMPE ...	One thousand five hundred and seven	1,507	One thousand eight hundred and sixty-three	1,863	...	356	82
HERBERT ...	One thousand five hundred and three	1,503	One thousand seven hundred and seventy-nine	1,779	...	276	34
IPSWICH ...	Two thousand two hundred and forty-five	2,245	Two thousand eight hundred and thirty-one	2,831	...	586	63
ITHACA ...	Two thousand and eleven	2,011	Three thousand and forty-four	3,044	...	1,033	102
KENNEDY ...	One thousand and seventy-six	1,076	One thousand and fifty-two	1,052	24	...	21
KEPPEL ...	One thousand three hundred and sixty-one	1,361	One thousand nine hundred and six	1,906	...	545	12
KURILPA ...	One thousand six hundred and eighty	1,680	Three thousand two hundred and five	3,205	...	1,525	41

LEICHHARDT	...	One thousand nine hundred and fifty-three	1,953	One thousand seven hundred and forty-five	1,745	...	46
LOOKYER	...	Eight hundred and eighty-seven	887	Two thousand and twenty-eight	2,028	1,141	46
LOGAN ...	...	One thousand six hundred and sixty-seven	1,667	Three thousand one hundred and seventy-one	3,171	1,504	46
MACKAY	...	One thousand six hundred and eighty-nine	1,689	Two thousand three hundred and ninety-five	2,395	706	28
MARANO	...	One thousand four hundred and seventy-seven	1,477	Two thousand two hundred and thirteen	2,213	736	32
MAREE ...	...	Two thousand and one	2,001	Three thousand one hundred and thirty-one	3,131	1,130	59
MARYBOROUGH ...	...	Two thousand and fifty-three	2,053	Two thousand and eighty-nine	2,089	36	49
MERTHYR	...	One thousand nine hundred and twenty-five	1,925	Three thousand two hundred and nineteen	3,219	1,294	42
MIRANI ...	...	One thousand and two	1,002	Two thousand one hundred and twenty one	2,121	1,119	35
MITCHELL	...	One thousand two hundred and fourteen	1,214	One thousand two hundred and forty-five	1,245	31	25
MOUNT MORGAN	...	One thousand nine hundred ...	1,900	One thousand eight hundred and ninety-two	1,892	...	40
MUNDINGBURRA	...	Two thousand five hundred and fifty-eight	2,558	Two thousand one hundred and fifty-two	2,152	...	36
MURILLA	...	One thousand three hundred and seventy-one	1,371	Two thousand four hundred and twenty-three	2,423	1,052	31
MURUMBA	...	One thousand two hundred and forty-eight	1,248	Four thousand two hundred and seventy-four	4,274	3,026	38
MUSGRAVE	...	One thousand two hundred and nineteen	1,219	One thousand eight hundred and one	1,801	582	23
NANANGO	...	One thousand nine hundred and fifty-five	1,955	Four thousand and ninety-two	4,092	2,137	34
NORMANBY	...	One thousand five hundred and twenty-three	1,523	Two thousand and eighty-four	2,084	561	41

RETURNING OFFICER'S STATEMENT OF RESULT OF POLL—*continued.*

Electoral District.	Votes Recorded for the Bill.		Votes Recorded against the Bill.		Majority For.	Majority Against.	Informal Votes.
	In Words.	In Figures.	In Words.	In Figures.			
NUNDAH ...	One thousand seven hundred and seventy-nine	1,779	Four thousand six hundred and eighty-five	4,685	...	2,906	44
OXLEY ...	Two thousand and seventy-three	2,073	Four thousand two hundred and forty-eight	4,248	...	2,175	91
PADDINGTON ...	Two thousand two hundred and sixty-eight	2,268	Two thousand six hundred and fifty-one	2,651	...	383	66
PITTSWORTH ...	One thousand and seventy-four	1,074	Two thousand three hundred and ninety-six	2,396	...	1,322	16
PORT CURTIS ...	One thousand six hundred and seventeen	1,617	One thousand nine hundred and ninety-seven	1,997	...	380	30
QUEENTON ...	One thousand one hundred and sixty-two	1,162	One thousand and sixty-nine...	1,069	93	...	22
ROCKHAMPTON ...	One thousand nine hundred and six	1,906	Two thousand one hundred and thirty eight	2,138	...	232	45
ROSEWOOD ...	One thousand two hundred and seventy-five	1,275	Two thousand four hundred and thirty-eight	2,438	...	1,163	27
SOUTH BRISBANE ...	One thousand eight hundred and eight	1,808	Two thousand eight hundred and ninety-seven	2,897	...	1,089	48
STANLEY ...	One thousand one hundred and ten	1,110	Two thousand seven hundred and twenty-one	2,721	...	1,611	22
TOOMBUL ...	One thousand eight hundred and fifty-three	1,853	Four thousand six hundred and one	4,601	...	2,748	84
TOOWONG ...	One thousand three hundred and seventy-five	1,375	Four thousand seven hundred and sixty-nine	4,769	...	3,394	37

TOOWOOMBA	...	One thousand four hundred and eighty-four	1,484	Two thousand three hundred and sixty	...	876	52
TOWNSVILLE	...	One thousand nine hundred and forty-one	1,941	Two thousand four hundred and two	...	461	24
WARREGO	...	One thousand six hundred and fifty-six	1,656	One thousand two hundred and twenty-four	432	...	20
WARWICK	...	One thousand one hundred and sixty	1,160	Two thousand five hundred and forty-one	...	1,381	37
WIDE BAY	...	One thousand seven hundred and fifty-two	1,752	Two thousand four hundred and thirty-four	...	682	22
WINDSOR	...	Two thousand four hundred and three	2,403	Four thousand eight hundred and thirty-four	...	2,431	60
Totals	...	One hundred and sixteen thousand one hundred and ninety-six	116,196	One hundred and seventy-nine thousand one hundred and five	...	62,909	2,968

Dated at Brisbane, the fifth day of October, 1917.

THE HONOURABLE THE HOME SECRETARY.

WILLIAM GALL, *Returning Officer*.

“ APPENDIX B.”

(PLEDGE.)

“ I, _____ being a duly nominated candidate for appointment to the Legislative Council of Queensland, pledge myself, if appointed to the said Council, to advocate and support the principles contained in the Queensland Labour Party’s State and Municipal platform, and on all questions affecting the platform to vote as a majority of the Parliamentary Labour Party may decide at a duly constituted caucus meeting. But in the event of the question of the interpretation of any plank in the platform being in dispute, it shall be referred to the Queensland Central Executive for decision, and that decision shall be final.

I also hereby give my pledge that, if appointed, I will faithfully attend to my duties as a Labour member and be constant in my attendance at the sittings of the Legislative Council, and in the event of my being unable to attend constantly I will tender my resignation when called upon by the Q. C. E. to do so.”—*Queensland “Hansard,”* page 1836, Session 1921.

“ APPENDIX C.”

(PUBLIC PROTEST.)

At the annual conference of the Northern Queensland Country Party, held in Townsville on Saturday, 5th November, 1921, the following motions were carried :—

“ That this conference enters its solemn protest against the recent political interference with the Judiciary.”

“ That it be a recommendation to the Executive Council that the Country Party’s Policy include a pledge for a repeal of the repudiatory Caucus Legislation, which has so disastrously affected the credit of the State.”

“ That, in view of the serious state of the finances, the reckless extravagance of the Caucus Government, the hurried discussion, the evident intention to govern without Parliamentary control, and the widespread fear of total disaster to the fortunes of the State thereby occasioned, this conference strongly advocates the promulgation of a monster petition, signed by the people of Queensland, calling for the dismissal of the Government, which is solely responsible for the position, and an immediate reference to the people.”

“ That this conference condemns the hasty and unconstitutional abolition of the Legislative Council in direct opposition to the expressed will of the people, and affirms its adherence to the principle of bicameral system with a Second Chamber elected by the people.”

“ That this conference further advocates the recall of all the privileges granted as a reward for the repudiation of constitutional responsibility.”

ENCLOSURE 5 IN No. 1.

MEMORANDUM containing observations by Ministers on a certain Memorial and Petition urging that the Royal Assent be not given to the Bill to amend the Constitution of Queensland by abolishing the Legislative Council.

Mr. Theodore presents his Respectful Compliments to His Excellency the Governor.

1. The documents under review are—

- (i) A memorial to His Excellency the Governor, signed by nine members of the Legislative Council of Queensland acting for and on behalf of themselves and purporting to act for others ; and
- (ii) A petition to His Majesty the King, signed by six persons (two of them being signatories to the above-mentioned memorial) who claim to be the executive officers of a Committee called the Constitution Defence Committee. No information is afforded in the petition as to the representative character of the Committee itself or whether the meeting of citizens and electors held in April, 1917, which appointed it was a public meeting. Of the six petitioners one is an ex-Premier in a Government opposed to Labour, two are ex-Ministers in such a Government, all are defeated candidates for the Legislative Assembly in the Conservative interest, and one is also a defeated candidate for the Federal Senate in the same interest. Three of them are at present members of the Legislative Council, appointed thereto at the instance of a Conservative Government.

2. The petition traverses almost identical ground with that covered by the memorial, and in the opinion of Ministers both documents may appropriately be dealt with in one paper.

3. The memorial begins with an assertion that the present Labour Government—

- (a) Representing in the aggregate a minority of voters in the recent general elections,
- (b) Without any definite mandate from the people,
- (c) In defiance of a specific referendum,
- (d) By means of violent applications of the closure in the Legislative Assembly, and
- (e) By means of a specially created majority in the Legislative Council,—

have forced through both Houses a Bill to amend the Constitution of Queensland by abolishing the Legislative Council. It then purports to set forth a brief statement of the events culminating in this

action (paragraphs 1 to 11). Next it submits for consideration several specific objections (sub-paragraphs (a) to (i)), and concludes with alternative petitions as follow :—

- (i) That no further action be taken until the will of a majority of the electors on this question be ascertained by a specific referendum or by a general election :
- (ii) That in the alternative the validity of the proposed Act of Abolition be referred to the Judicial Committee of the Privy Council for decision under the provisions of 3 & 4 Wm. IV, cap. 41 :
- (iii) That, in the event of the validity of such Queensland Act of Abolition being for any reason upheld, final action thereon be suspended until either by specific referendum or at a general election the will of the people of Queensland be ascertained upon so far-reaching and vital a proposal.

Allegations of fact in memorial and petition are inaccurate.

4. The allegations of fact set forth in the memorial and petition are so inaccurate that the true position of affairs cannot, in the opinion of Ministers, be justly appreciated without a somewhat detailed recital of recent political events. It is proposed, therefore, in the first place to show the manner in which the Legislative Council have dealt with the various reform proposals of the Government, sent to them after passing the Legislative Assembly, and in the second place to summarise the history of the struggle for the enactment of the measure now in question.

Session of 1915-1916 (First Session of Twentieth Parliament).

5. Parliament opened on 12th July, 1915, and sat till 22nd December, then adjourned to 25th January, 1916. It sat on 25th January, 1916.

The number of sitting days of the Assembly was 74.

The number of sitting days of the Council was 61.

The constitution of the Assembly was 45 to 27—a Government majority of 18.

The number of members of the Council was 40 (inclusive of the President, the Chairman of Committees, and the Minister representing the Government). One member died three days after the House met, so that the effective number was 39.

Of these, 11 members were absent from more than 30 sittings: 2 of them did not attend at all.

No additional members of the Council were appointed at the instance of the Government, even to fill vacancies.

The Legislative Council was constituted of members as follows :—10 of them were appointed before 1900 by Conservative Governments; 5 of them were recently appointed during the *régime* of the late Government in July, 1914, and 5 of them in July, 1912. Eight of the members were ex-Ministers in Conservative Governments, and 4 of them were defeated candidates in the Conservative interest.

Measures slaughtered in this Session.

6. The hostility of the Legislative Council to the programme of the new Government which had just been returned with so sweeping a majority is disclosed by the manner in which that chamber dealt

with the Bills sent for its approval after passing the Assembly. The more important of these were as follow :—

Meatworks Bill.—A War Measure, carried on second reading in the Assembly without division. This Bill was so mutilated by the Council that it could not be accepted by the Assembly and was lost.

Commonwealth Powers (War) Bill.—A War Measure introduced pursuant to a decision at a Commonwealth and State Conference of Premiers, carried on second reading in the Assembly by 37 to 18 (with six pairs on each side). In the Council the second reading was defeated by 5 to 19 (with one pair on each side). The matter was considered of such importance that the Bill was revived later in the session, when the Council by 21 to 5 postponed the second reading for six months. The Bill was thus lost.

Constitution Act Amendment Bill.—The present Bill was passed in the Assembly and rejected by the Council.

Industrial Arbitration Bill. carried on second reading in Assembly without division. The Bill was amended by the Council in many vital particulars and it could not be accepted by the Assembly. The Bill was lost in this session.

Metropolitan Sewerage Workers' Award Bill. carried on second reading in Assembly by 38 to 16 (with four pairs on each side). This Bill was also so amended by the Council as to be unacceptable to the Assembly and was lost.

Public Works Bill, to provide a Parliamentary Standing Committee on such works. In the Assembly the second reading was carried without division. In the Council this Bill was so amended as to be unacceptable, and was lost.

Land Act Amendment Bill, carried on second reading in the Assembly without division. The Council also amended this Bill in vital matters, and the Bill was accordingly lost in this session.

Local Authorities Acts Amendment Bill, carried on second reading in the Assembly by 35 to 16 (with six pairs on each side). The Council rejected the Bill on its second reading by 15 to 2.

Workers' Compensation Bill was attempted to be mutilated, but owing to the neglect of the Council to revise its own handiwork the mutilation was not sufficiently effective to destroy the basic principle of the measure and it became law. The law, however, in its then unsatisfactory state was the subject of very expensive litigation, and the objectionable features thereof which caused this litigation were only removed by an Amending Act of the session of 1921 (12 Geo. V, No. 29).

In addition the following measures were substantially amended by the Council—viz., *Income Tax Bill* ; *Land Tax Bill*. On these measures free conferences between the Houses were held, and compromises were agreed to whereby the Bills were carried.

Other measures which contained provisions conformable to the basic policy of the Government, and which were amended by the Council by the excision or radical amendment of such provisions, and which

amendments were accepted by the Assembly rather than that the whole measure should be lost, were—*Metropolitan Water Supply and Sewerage Act Amendment Bill* ; *Workers' Accommodation Bill* ; and *Trade Union Bill*.

Every measure introduced by the Government during this session which was designed to give effect to its democratic programme met with hostility in the Council, and the Government had to exercise patience and diplomacy in order to secure the passage of any of them.

Session of
1916-1917
(*Second
Session of
Twentieth
Parliament*).

7. Parliament opened on 22nd August, 1916, and sat till 22nd December. It then adjourned to 30th January, 1917. It sat from 30th January till 15th February, 1917.

The number of sitting days of the Assembly was 72.

The number of sitting days of the Council was 63.

The number of members of the Council was 38.

Of these members, 16 were absent for 30 sittings and upwards ; 2 of them did not attend at all, and 5 of them attended at less than 10 sittings.

The personnel of the Minister representing the Government was changed on 15th February, 1917. With the exception of this appointment, no members were appointed at the instance of the Government.

Measures
slaughtered
in this
Session.

8. During this session, of the 51 Bills introduced by the Government 18 Bills were either rejected by the Legislative Council or were lost in consequence of the failure of the two Houses to come to an agreement with respect to amendments made by the Council.

Of these measures the Meatworks Bill, Commonwealth Powers (War) Bill, Constitution Act Amendment Bill (the Bill now in question), and the Local Authorities Acts Amendment Bill were again lost, as they had been in the prior session.

Meatworks Bill was even more drastically amended by the Legislative Council on this occasion than when it was before that chamber in the prior session.

Local Authorities Act Amendment Bill, enlarging the franchise for Local Authorities' elections, was again rejected. It was, however, carried into law during the session of 1920. It is significant that this Bill was passed three times by the Legislative Assembly before it met with the acceptance of the Legislative Council in an altered House.

Income Tax Act Amendment Bill, a money Bill, was so amended by the Council that an estimated loss of £160,000 in revenue (needed in view of the large vote on the current Estimates for settlement of returned soldiers and like purposes) was entailed. The amendments could not be accepted and the Bill was lost.

Regulation of Sugar Cane Prices Act Amendment Bill.—The Legislative Council referred the Bill to a Select Committee of their members, and finally returned it to the Assembly in such an emasculated condition that the measure in that shape was worthless. It was lost. The provisions of this Bill were again submitted in 1917 and became law after drastic amendments had been made in them by the Council, pursuant to a report of a Select Committee of that House before which the manager of the Colonial Sugar Refining Company (a gigantic

monopolistic concern) had made recommendations, and which recommendations were in the main adopted in the amendments made by the Council.

Popular Initiative and Referendum Bill.—This Bill was by wholesale amendments in the Legislative Council changed into another measure. There was absolutely no justification for this course, as the object of the Legislative Council could practically have been obtained under the Bill as sent to them. The Bill was lost.

Hospitals Bill, a most useful and badly needed measure, was rejected by the Legislative Council on the second reading.

Wages Bill, a consolidation with needed amendments of the existing law, was amended by the Council in vital particulars (especially in relation to "truck") and the Bill was lost. It was subsequently enacted in the session of 1918 (9 Geo. V, No. 19).

Valuation of Land Bill, a measure modelled on the lines of similar measures in New Zealand and New South Wales, and prepared pursuant to resolutions at two recent conferences of State Premiers. The Bill was rejected by the Council on second reading. The rejection of this Bill afforded the clearest evidence of the settled hostility of the members of the Council (many of whom were largely interested in land as pastoralists, freeholders and directors of companies and financial institutions) to the remedial legislation of the Government.

Criminal Code Amendment, to abolish capital punishment, rejected on second reading by the Legislative Council.

Chillagoe and Etheridge Railway Purchase Bill was referred to a Select Committee of the Council, and subsequently a motion was carried that the Bill be read four months hence. This Bill was subsequently enacted in 1918 (9 Geo. V, No. 17).

Opticians Bill, to regulate the training and practice of opticians, rejected by Legislative Council on second reading. It became law in the following session (8 Geo. V, No. 7).

Sugar Experiment Stations Bill was so amended by the Legislative Council in important particulars that the Bill was lost.

Marsupial Boards Act Amendment Bill, introduced at the request of persons and boards interested. The Council amended the Bill and insisted on rejecting the clause limiting the subsidy. The Bill was lost.

Mining for Coal and Mineral Oil Bill, dealing with hours of labour underground. The Council would not accept the principle of the Bill and it was lost.

Rabbit Act Amendment Bill.—This Bill was also so amended by the Legislative Council as to be unworkable and was lost.

The Workers' Compensation (Industrial and Mining Diseases) Amendment Bill was limited in its operation to two years from 1st July, 1917, by an amendment of the Council, and was reluctantly accepted by the Legislative Assembly in this form. This reactionary amendment was deleted from the Act by an Amending Act in 1918 (9 Geo. V, No. 21).

It would indeed be hard to cite any other instance of any colony having representative institutions within His Majesty's dominions in which during a whole session the will of the people, as represented by an Assembly in which the Government had a very large majority, was persistently thwarted by a nominee Council, most of the members of which, by reason of advanced age and their association with vested money interests, had completely lost touch and were out of sympathy with the aims and aspirations of an intelligent and progressive people. During this session it became abundantly manifest that the Opposition in the Legislative Assembly hardly concerned itself with careful examination or criticism of the measures of the Government. It relied on the Legislative Council to destroy the effect of the measures. This attitude alone is surely much to be deplored. It is of the essence of true representative government that His Majesty's Opposition in the representative chamber should assume and retain the full responsibility of criticising the measures introduced and assist to perfect them by salutary amendments.

Session of
1917 (*Third
Session of
Twentieth
Parliament*).

9. Parliament opened on 9th July, 1917, and sat till 6th December.

The number of sittings of the Assembly was 74.

The number of sittings of the Council was 57.

Until 10th October, 1917, the number of members of Council was 37. On that date 8 new members were appointed at the instance of the Government. On 12th October 5 additional new members were so appointed.

Of the original members 13 were absent for 30 sittings and upwards; one of them did not attend at all, and one attended only 1 sitting.

Measures
slaughtered
in this
Session.

10. The following is a list of the Bills absolutely rejected or postponed for six months by the Legislative Council during this session:—

Chillagoe and Etheridge Railways Bill.

Land Tax Act Amendment Bill.

Requisition of Ships Bill.

Succession and Probate Duties Acts Amendment Bill.

Stamp Act Amendment Bill.

Bundaberg Harbour Board Act Amendment Bill.

Income Tax Act Amendment Bill.

Valuation of Land Bill.

The following Bills were mutilated by the Legislative Council and lost:—

Popular Initiative and Referendum Bill.

Wages Bill.

State Iron and Steel Works Bill.

The following Bills were amended in vital particulars but were passed by the Legislative Assembly rather than that they should be entirely lost:—

Farm Produce Agents Bill.

State Produce Agency Bill.

Land Acts Amendment Bill.

It is to be noted that during this Session the Council threw out important financial measures of the Government, and that even the Appropriation Act No. 4 was not passed by the Council until after a free conference.

11. In the newly elected Assembly the numbers were 48 to 24, constituting a majority of 24 for the Government. Session of 1918 (First Session of Twenty-first Parliament).
Parliament opened on 28th May, 1918, and sat till 7th November.
The number of sittings of the Assembly was 71.
The number of sittings of the Council was 64.

Of the original members 15 were absent for 30 sittings and upwards ; one of them did not attend at all, one attended twice, and one four times.

12. The following is a list of the Bills absolutely rejected or postponed for six months by the Legislative Council during this session :— Measures slaughtered in this Session.

Land Act Amendment Bill.
Valuation of Land Bill.
Trades and Labour Hall Grant Bill.
Constitution Act Amendment Bill (the present Bill).

The following Bills were mutilated by the Legislative Council and lost :—

Absent Soldiers' Voting Bill.
Insurance Act Amendment Bill.
Land Act Amendment Bill (No. 3).
Popular Initiative and Referendum Bill.
State Produce Agency Act Amendment Bill.
Meatworks Bill.

The Brisbane Tramway Fares Bill, Brisbane Tramway Purchase Bill, and Dairy Produce Bill were referred to Select Committees, and were thus indefinitely postponed. One of them never became law.

The following Bills were amended in vital particulars but were accepted in a mutilated form rather than that they should be entirely lost :—

Workers' Compensation Act Amendment Bill.
Wages Bill.
State Enterprises Bill.

The following Bills were only passed after free conferences between the Houses :—

Appropriation Bill No. 3.
Income Tax Act Amendment Bill.
Land Tax Act Amendment Bill.
Stamp Act Amendment Bill.
Succession and Probate Duties Acts Amendment Bill.

The Government were much embarrassed by the hostile attitude assumed against their financial proposals, and it was only after anxious debate and the exercise of the greatest patience and tact that these proposals, even in an amended form, were given effect to.

Session of
1919-1920
(*Second
Session of
Twenty-first
Parliament*).

13. Parliament opened on 5th August, 1919, and sat till 7th November, when it adjourned till 6th January, 1920. It sat from 6th January, 1920, till 25th February.

The number of sittings of the Assembly was 77.

The number of sittings of the Council was 47.

On 19th August, 1919, 3 new members were appointed at the instance of the Government, and on 19th February, 1920, 14 new members were so appointed.

Of the original members 15 were absent from 25 sittings and upwards ; one of them did not attend at all.

Measures
slaughtered
in this
Session.

14. In this session five measures of importance were thrown out by the Legislative Council. They were as follow :—

Unemployed Workers Bill, designed to minimise unemployment by creating an Insurance Fund and the carrying out of relief works. It was rejected by the Council on second reading.

Elections Act Amendment Bill, for the extension of the franchise of electors of members of the Legislative Assembly, and making other needed amendments in the law, also rejected on second reading by the Council.

Constitution Act Amendment Bill—the present measure—again rejected by the Council.

Officials in Parliament Act Amendment Bill, to increase the number of Ministers of the Crown capable of sitting in the Legislative Assembly. Rejected on second reading by the Council.

Governor's Salary Act Amendment Bill, making better provision for the emoluments of the officer administering the government in the absence, etc., of the Governor. A purely money Bill. Rejected by the Council on second reading.

In addition to these measures, the Popular Initiative and Referendum Bill was again so mutilated as to be entirely unacceptable to the Legislative Assembly.

First Session
of 1920
(*Third
Session of
Twenty-first
Parliament*).

15. Parliament opened on 18th August, 1920, and sat on that and the following day.

General
Election,
1920.

16. A general election was held shortly afterwards.

The composition of the Legislative Assembly as returned at that election was 38 to 34. The supporters of the present Government numbered 38 and the Opposition consisted of two if not three distinct parties. It was composed as follows : Nationalists, 13 ; Country Party, 19 ; Northern Country Party, 2.

The aims and ideals of these parties were not infrequently very different. At the elections instances occurred of candidates of these parties opposing each other, and in one case without there being any Labour candidate.

During the course of the Parliament one supporter of the Government threw in his lot with the Country Party whose objective was claimed to be wholly democratic.

A critical instance of the serious cleavage between these parties is found in the fact that a large number of the Country Party, including its leader, voted in favour of the abolition of the Legislative Council in the committee stage of the Bill in 1921.

A few days ago a prominent member of the Nationalists in the Legislative Assembly notified his intention of leaving that party and giving his adherence in future to the Country Party. Forthwith the leading Conservative journal (the *Brisbane Courier*) strongly condemned his action; declared that before so doing he should have resigned his seat and sought re-election; and warned him that by not doing so he had signed his own political death-warrant.

In view of the foregoing facts it is surely presumptuous to say that the principles on which the Labour Party were returned to office at the last election have been condemned by the majority of the people.

17. Parliament opened on 15th November, 1920, and sat till 23rd December.

The number of sittings of the Assembly was 27.

The number of sittings of the Council was 16.

Of the original members, 21 were absent from 10 sittings and upwards, 3 of them did not attend at all, 7 of them attended only one sitting, and 6 of them attended less than five sittings.

18. Parliament opened on 9th August, 1921, and sat till 27th October.

The number of sittings of the Assembly was 46.

The number of sittings of the Council was 24.

19. Before passing from this summary of legislative history from 1916 to 1921, it is, in the opinion of Ministers, right and just to make two statements which throw a further light upon the method in which the nominee Council carried out the functions entrusted to it—

Second Session of 1920 (*First Session of Twenty-second Parliament*).

Session of 1921 (*Second Session of Twenty-second Parliament*).

The attendance of members of the nominee Council.

(i) Reference to the Journals of Parliament would disclose that before the recent new appointments were made its members attended in anything like numbers proportionate to its total strength only when it became necessary to reject or mutilate a measure of reform; and

(ii) The record of attendance of members as printed in those Journals does not disclose the true attendance throughout a sitting. If a member merely came in for half-an-hour he was registered as having been present for the sitting. When business of the Council (*i.e.*, business which did not require special hostile attention) was being proceeded with, the spectacle was common of a House sitting and doing business without a quorum and vital amendments on important Bills being moved and carried against the Government and the representative Minister being unable to call for a division or to draw attention to the state of the House for fear that it would be counted out, and that the programme of the Government would be thereby indefinitely postponed.

Contrast with the attitude of the Council towards the proposals of the late Conservative Government.

20. The merciless way in which the members of the Legislative Council dealt with the democratic measures of the present Government is in marked contrast with their complacency during the *régime* of the Denham Government, which the present Government displaced. This contrast appears in the conspectus which is hereunder set out—

DENHAM GOVERNMENT.

SESSION OF 1911-1912.

Bills sent to Legislative Council—29 (one a Private Bill).

(1) Rejected	...	...	...	...	...	...	...	1
(2) Passed without amendment	...	...	...	...	...	...	...	20
(3) Passed with amendments	...	...	...	...	...	...	...	8

Of these—

- (a) Amendments accepted by Assembly—3 Bills.
- (b) Legislative Council gave way—3 Bills.
- (c) Matter compromised—1 Bill.
- (d) Bill lost—1 Bill (a consolidated and amended Liquor Bill).

It is to be noted that the Liquor Bill was a measure of reform, and it is not unjust to observe that several influential members of the then Council were directly or indirectly concerned in impeding the passage of the measure, for they were interested in breweries, distilleries and lands on which hotels were built.

SESSION OF 1912.

Bills sent to Legislative Council—34 (two of them Private Bills).

(1) Rejected...	...	...	...	...	...	...	...	None
(2) Passed without amendments...	...	...	...	...	...	...	...	20
(3) Passed with amendments	...	...	...	...	...	...	...	14

Of these—

- (a) Amendments accepted by Assembly—6 Bills.
- (b) Not returned from Assembly—1 Bill (Articled Clerks Protection Bill).
- (c) Matters compromised—7 Bills.

SESSION OF 1913.

Bills sent to Legislative Council—29 (one a Private Bill).

(1) Rejected...	...	...	...	...	...	...	...	None
(2) Not proceeded with beyond Committee—1 Bill (Stock and Farm Produce Agents Bill).								
(3) Passed without amendment	...	...	...	...	...	...	...	20
(4) Passed with amendments	...	...	...	...	...	...	...	8

Of these—

- (a) Amendments accepted by Assembly—5 Bills.
- (b) Council withdrew amendments—1 Bill.
- (c) Matters compromised—2 Bills.

SESSION OF 1914.

Bills sent to Legislative Council—38 (three of them Private Bills).

(1) Rejected...	...	...	...	...	...	...	...	None
(2) Referred to Select Committee and not further proceeded with—1 Bill (Metropolitan Fish Market Act Amendment Bill).								
(3) Passed without amendment	...	...	...	...	...	...	...	25
(4) Passed with amendments	...	...	...	...	...	...	...	12

Of these—

- (a) Amendments accepted by Assembly—7 Bills.
- (b) Matters compromised—5 Bills.

21. The immediate abolition of the Legislative Council has for many years past been part of what is known as the "fighting platform" of the Labour Party in this State.

Stated shortly the view adopted is that in a democratic community there is no logical necessity for a bicameral legislature. Grant the widest franchise, means for keeping the electoral districts proportionate as population spreads, honest electoral laws, frequent elections, and the responsibility of Ministers to Parliament, then there is no need for a nominee House. The laws should be made by the representatives of the citizens. An upper chamber elected on a restricted franchise is to the extent of the restriction non-representative, and if elected on the widest franchise it tends to become a mere replica of the other chamber; if elected for a longer time it may become *pro tanto* a drag on the changed will of the people. Moreover, an elective Legislative Council would naturally seek to exercise an authority by way of financial control, which would inevitably lead to embarrassment and disputes.

In the opinion of Ministers the experience of the self-governing States of Australia and of the Commonwealth offers ample testimony to the soundness of this position.

All the arguments *pro* and *con.* upon this subject have, however, been worn threadbare in the debates thereon in the Legislature and throughout the country during the past six years.

22. Immediately upon the accession of this Government to power in 1915, the present Bill was introduced in the Legislative Assembly. In that chamber the voting in that year was as follows:—Second reading carried, 38 to 17 (with seven pairs on each side); in Committee, Clause 2 (the effective abolition clause) carried, 37 to 17 (with seven pairs on each side); third reading carried, 30 to 9 (with two pairs on each side). It was then sent to the Legislative Council and rejected by 26 to 3.

History of the prolonged struggle for its abolition.
Action in 1915.
Bill lost.

23. In the session of 1916 the Bill was again introduced in the Legislative Assembly, when the voting was—Second reading carried, 35 to 15 (with seven pairs on each side); in Committee, Clause 2 carried, 33 to 14 (with eight pairs on each side); third reading carried without division. It was then sent to the Legislative Council and rejected by 19 to 3.

Action in 1916.
Bill again lost.

24. Pursuant to "The Parliamentary Bills Referendum Act of 1908" it was then proposed to submit the Bill to the people; a date was fixed for that purpose and the writ was issued. The objectors to the Bill, being certain members of the Council, including the Hon. W. F. Taylor, M.L.C., at once sought and obtained from the Supreme Court an interlocutory injunction against the Government and the referendum officials. It therefore became necessary to suspend temporarily the preparations for taking the poll, and although by means of expensive litigation the injunction was subsequently dissolved by the High Court it was impossible for the Government to place the question before the electors in the manner desired. The poll was taken, and the reason for an apparently adverse vote is capable of a complete explanation.

Referendum poll, 1917.

Review of
the result.

25. First of all there was practically no campaign in regard to the matter by those who favoured abolition. There was a Federal election on at the time, and the Federal issues were fought bitterly and intensely throughout the country. The referendum was taken on the same day as the Federal election. The supporters of the Labour Party in the country were earnestly engaged on that campaign, while the vested interests representing the Legislative Council, who wanted the Council to remain for their own special purpose, spent thousands of pounds in active and misleading propaganda.

Further, under the Parliamentary Bills Referendum Act the question had unfortunately to be stated in such a way that it presented confusion in the minds of the people. A vast number of people who went to the poll—and this applies both ways—did not know exactly what was involved in the question, owing to the extraordinary manner in which it had to be stated.

Again, on referendum day there was a poll taken for a reduction of hotel licences, and the licensed victuallers' organisations throughout the country, without any reference whatever to the particular question submitted, were advising everyone to vote in the bottom square on the ballot paper, and that had the effect of influencing many thousands of votes in regard to the referendum vote.

General
election,
1918.

26. Then came the general election in 1918. The Government made this question an issue at that election, and the Conservative Party took care that it was an issue in the general appeal to the electors. The "Brisbane Courier" had whole-page advertisements warning the people that if they returned the Labour Party to power again the Legislative Council would be abolished. The late Premier, Mr. Ryan, the then leader of this Government, in one of his first speeches in Brisbane, called attention to the policy of the party in regard to the abolition of the Council. The present Premier, Mr. Theodore, referred to it on many platforms, and so did Labour members all over Queensland. It became one of the most prominent issues in that election, and the Government came back with a handsome endorsement from the electors to carry out that policy. That was, in the opinion of Ministers, a complete reversal of the vote of 1917.

Bill again
introduced
and again
lost.

27. In the session of that year (1918) the Bill was introduced for the third time in the Assembly. The second reading was carried by 34 to 15, and Clause 2 and the third reading were carried by 32 to 15. It is manifest that in a House consisting of 72 members, many members must have refrained from voting against the measure. The Bill was then sent to the Legislative Council and was rejected by 25 to 16.

General
election,
1920.

28. Next came the general election in 1920. The question was again made a prominent issue. The Premier in his policy speech used these words :—

"It might be advisable at this stage for me to mention that the Labour Party have not changed their attitude with regard to the Legislative Council. If the Upper House is elected on a democratic franchise, it becomes a mere echo of the Lower Chamber. If, on the other hand, it is a nominee House, or is elected on a restricted franchise, it becomes an obstruction to demo-

cratic progress and the home of reactionary interests. One legislative chamber elected on the broadest franchise, and subject to triennial appeals to the people, is the most satisfactory Parliament that can be established in any democratic country."

There is no doubt about the clearness with which the question was stated. At that election every party made it an issue, and two parties—the Nationalist Party and the Country Party—for the first time came out with a proposal to reform the Council.

29. The Bill was introduced a fourth time in the Legislative Assembly in the session of 1921, when the second reading was carried by 39 to 30. Clause 2 (the clause effecting the abolition) was carried by 51 to 15, and the third reading was carried by 46 to 17. An amendment moved by a member of the Opposition that the Bill be sent to a referendum was defeated. It was then sent to the Legislative Council, where the Bill was carried through second reading by 28 to 10. introduced a fourth time.

The following facts are, in the opinion of Ministers, highly significant :—

The Council consisted of 59 members, of whom 28 were members remaining of those appointed prior to the present Government's accession to office in 1915.

Of these 28 original members one voted Content and 10 voted Not-content. Thus, at the crucial division on this Bill, 17 of these original members were absent from their place in Parliament. One of these original members, though present at the sitting, did not stay to record his vote.

Of the nine signatories to the present memorial, four of them were not present in the House during the passage of the Bill through second reading and subsequent stages.

30. In view of the assertion so persistently reiterated that the Government are in a minority in the country, if the aggregate votes of electors be counted (giving to the Opposition credit for all votes cast whether for Nationalists, Country Party or Northern Country Party, on the assumption that they are a solid phalanx against the Government—which, however, in the opinion of Ministers, is manifestly not the case) it is surely legitimate to contrast the number of votes of electors cast for the members who voted for Clause 2 of this Bill in Committee in the Legislative Assembly with the number of votes of electors cast for those members who voted against Clause 2. The aggregate vote of electors represented by the members of the Assembly who voted on the question of abolition.

For this purpose it is fair to add to the affirmative the votes cast for the member for Brisbane, who was Chairman of Committees and is a prominent supporter of the Government. The result would be as follows :—

Affirmative	..	..	52 members	..	146,834 votes.
Negative	..	..	15 members	..	59,460 votes.
Total votes	..	..	..	..	206,294.
Majority of votes in favour of the abolition					
of the Legislative Council				..	87,371.

Recent
Municipal
Elections.

31. A subsidiary allegation in paragraph 7 of the petition states that "since the General Election in 1920, at the Municipal Elections held on the same rolls throughout the State the candidates supporting the Government policy were defeated by a majority aggregating many thousands of votes, the successful Government candidates numbering 60 and their unsuccessful opponents numbering 660."

This is a mere echo of a party cry raised in a local newspaper. The laws relating to Local Government are concerned with parochial matters only, such as the management and control of roads, bridges, ferries, cemeteries and public parks. Each area has its own interesting little problems, and it was natural that residents of each area should elect to office those who were considered likely to render the best service in these matters. There was no great public interest evinced at the separate elections; scores of aldermen and councillors were re-elected without a poll. In the opinion of Ministers the figures quoted in the petition are grossly unfair, and do not in any sense convey any indication whatsoever of the attitude of the electors towards this Government and its general programme.

The
allegations
of fact in
the memorial
and petition
are refuted.

32. The foregoing statements relating to the action of the Legislative Council in its settled opposition to the will of the people during the years 1915 to 1919, and especially with regard to the amendment of the Constitution now under consideration, are of common knowledge and in the main are verifiable by reference to easily accessible public documents.

It is the strong opinion of Ministers that the preamble of the memorialists (and equally so of the petitioners) is entirely without warrant of fact. It is not true that the Government represented in the aggregate a minority of voters in the recent general elections, or that they have acted without definite mandate from the people or in defiance of a specific referendum, or that by means of violent applications of the closure in the Legislative Assembly, or by means of a specially created majority in the Legislative Council they have forced this Bill through both Houses. Such statements, in the opinion of Ministers, are most intemperate and intended to mislead.

On the contrary, Ministers humbly but confidently aver that, in the face of unmerited calumny and notwithstanding persistent misrepresentation, they have endeavoured to faithfully perform their duty to the people in the advice they have tendered to His Excellency during their protracted term of office and in the proposal of measures (including this Bill) which are calculated to promote justice, equality, free opportunity, and happiness throughout the community. If in the discharge of their most difficult duties they have shown prolonged patience and equanimity under harassment, and in matters of political concern have acquired a measure of adroitness in dealing with faction they deserve not censure but praise.

The legal
aspect
considered.

33. Having dealt at this length with the allegations of fact in this memorial (and petition) it is necessary to consider the matter in its legal aspect. So far as the objections of the memorialists are based upon legal grounds—that is, upon consideration of the true con-

struction of the various Statutes, Acts, and instruments which, taken together, may be referred to generally as the Constitution, and on legal decisions and dicta, Ministers advise that the answer may fortunately be reduced to a small compass.

34. The competency of the Legislature of Queensland to pass a valid law for the abolition of the Legislative Council subject to the Bill being reserved for the signification of His Majesty's pleasure thereon, and the validity of such a law after it has received the Royal Assent, are no longer open to any doubt. In the opinion of Ministers this is the clear result of the decisions of the High Court of Australia (a unanimous decision of five judges) in the case of *Taylor v. Attorney-General of Queensland* (23 C.L.R. 457), and of the Judicial Committee of the Privy Council in *McCawley v. The King—Attorney-General for England intervener* (1920 A.C. 691). The Bill is a valid exercise of constitutional power.

It is not necessary (it is conceived) to discuss at any length these cases, or the Acts Imperial or Colonial therein referred to.

It is, however, pertinent to observe, in view of the allusions in the memorial to the first of these cases, that the decision of the Full Court of Queensland, from which the appeal to the High Court of Australia was brought, was based in large measure upon a decision of the High Court of Australia (*Sir Pope Cooper v. Commissioner of Income Tax*, 4 C.L.R. 1304). That case had decided that the Constitution of Queensland is a fundamental or organic law differing in this respect from ordinary statutes of the State, and that consequently there existed a fetter on the Legislature in seeking to exercise the power to amend such Constitution. So far as the decision of the Full Court of Queensland was based on other grounds they are completely swept away by the decision of the High Court on appeal: and the decision in *McCawley's* case (*ubi sup.*) is entirely inconsistent with the dicta in *Cooper's* case which were relied on by the Full Court.

35. Lord Birkenhead, L.C., who delivered the judgment of their Lordships in *McCawley's* case, in referring to the distinction between constitutions, the terms of which may be modified or repealed with no other formality than is necessary in the case of other legislation, and constitutions which can only be altered with some special formality, said (at p. 703)— Citation from judgment of Lord Birkenhead, L.C.

"Some communities, and notably Great Britain, have not in the framing of constitutions felt it necessary, or thought it useful, to shackle the complete independence of their successors. They have shrunk from the assumption that a degree of wisdom and foresight has been conceded to their generation which will be, or may be, wanting to their successors, in spite of the fact that those successors will possess more experience of the circumstances and necessities amid which their lives are lived."

And again (at p. 704)—

"Many different terms have been employed in the text-books to distinguish these two contrasted forms of constitution. Their special qualities may perhaps be exhibited as clearly by calling the one a controlled and the other an uncontrolled constitution as by any other nomenclature. Nor is a constitution debarred from being reckoned as an uncontrolled constitution

because it is not, like the British constitution, constituted by historic development, but finds its genesis in an originating document which may contain some conditions which cannot be altered except by the power which gave it birth. It is of the greatest importance to notice that where the constitution is uncontrolled the consequences of its freedom admit of no qualification whatever. The doctrine is carried to every proper consequence with logical and inexorable precision. Thus when one of the learned judges in the Court below said that, according to the appellant, the constitution could be ignored as if it were a Dog Act, he was in effect merely expressing his opinion that the constitution was, in fact, controlled. If it were uncontrolled, it would be an elementary commonplace that in the eye of the law the legislative document or documents which defined it occupied precisely the same position as a Dog Act or any other Act, however humble its subject matter.

“The fundamental contention of the respondents in this appeal requires the conclusion that the constitution of Queensland is in the sense explained above a controlled constitution.

* * * * *

“Their Lordships are clearly of opinion that no warrant whatever exists for the views insisted upon by the respondents, and affirmed by a majority of the judges in the Courts below. It was not the policy of the Imperial Legislature, at any relevant period, to shackle or control in the manner suggested the legislative powers of the nascent Australian Legislatures. Consistently with the genius of the British people what was given was given completely, and unequivocally, in the belief fully justified by the event, that these young communities would successfully work out their own constitutional salvation.

“An examination of the various statutes which are relevant to the matter renders this conclusion, in the opinion of the Board, certain” (p. 706)

Taylor's
case
applied.

36. In Taylor's case it was decided that, under the express power to make laws respecting the Constitution, the power exists to abolish the Legislative Council by an Act passed in accordance with “*The Parliamentary Bills Referendum Act of 1908.*” The same considerations, it is submitted, apply with equal if not greater force to a Bill passed by both Houses of Parliament, and which, having been reserved for the Royal Assent, has been assented to.

Answer to
memorial,
subpars. (c)
and (g).

37. It is objected by the memorialists that “since all the other States of the Commonwealth retain the bicameral system its destruction in Queensland would fatally prejudice the standing and rights of this State, reducing it below the level of all the others and dislocating the provisions by which due representation in the Federal Parliament is secured to Queensland”; and that

“‘The Commonwealth of Australia Constitution Act’ (an Imperial Statute) recognises the continued existence of both Houses of Parliament of each State; also ‘The Australian States Constitution Act of 1907’ recognises the continued existence of both Houses of Parliament of each State of the Commonwealth of Australia. The Legislature of the State of Queensland has no warrant or authority to alter any of the provisions of these two before-mentioned Imperial Statutes, and effect could not be given to them if the Legislative Council were abolished.”

In the petition the objection is stated as follows :—

Paragraph 14 (c) : “ The question of abolition is not of domestic politics only but intimately affects the Federal relationship with the Commonwealth of Australia.”

These objections will now be shortly considered.

38. In the preamble to “ The Commonwealth of Australia Constitution Act ” it is declared that the *people* of New South Wales, Victoria, South Australia, Queensland and Tasmania have agreed to unite in one indissoluble Federal Commonwealth under the Crown and under the Constitution as hereby established. It was the *people* of Queensland, not the Parliament, which entered into this compact. No disturbance of Federal relationship.

Under that law provision is made for the Parliament of the Commonwealth. The Senators for Queensland are chosen by the people of the State voting as one electorate, and each State has equal representation. Thus the people choose the Senators.

The Members of the House of Representatives are directly chosen by the people and the number for each State is (subject to a certain minimum) proportionate to population.

Reference in that Constitution (in sections 10, 31 and 41) to the laws relating to the elections of the more numerous House of the Parliament of a State are plain references to the Legislative Assembly and cannot create any confusion.

By section 106 the Constitution of each State of the Commonwealth shall, subject to this Constitution, continue as at the establishment of the Commonwealth until altered in accordance with the Constitution of the State, and by section 107 every power of the Parliament of a Colony which has become a State shall, unless it is by this Constitution exclusively vested in the Parliament of the Commonwealth or withdrawn from the Parliament of the State, continue as at the establishment of the Commonwealth.

The provisions of these fundamental sections are a recognition in the clearest possible language of the right and power of a State to alter its Constitution, pursuant to power vested in it so to do, without interference from the Federal Parliament or Executive. They contain also an emphatic recognition of the basic principle of this Federation—that a State retains all its powers and authorities except those given up. Surely there could not be a more cogent statement that so far as the Federation is concerned the Constitution of a State and its alteration are matters of State internal concern. So far indeed is this Act from recognising the continued existence of both Houses of Parliament of a State that it declares the freedom of the State to alter its Constitution.

In view of these provisions, references in the Statute (in such sections as 7, 29, 51 (xxxvii) and (xxxviii), 107, 111, 123 and 124) to the Parliament of a State are evidently references to the Parliament as it is for the time being constituted. The only express reference to both Houses is in section 15, which, in view of the foregoing provisions, would no doubt be construed as bearing reference to the one House remaining after the bicameral system had been duly superseded.

It is confidently submitted, therefore, that the objection that the abolition of the Legislative Council is contrary to the provisions of the Commonwealth Constitution Act, or would amount to an abortive attempt to amend it, or would prevent full effect being given to its provisions, or that the question of such abolition intimately or at all affects the Federal relationship, is entirely without foundation.

No reduction in Federal status.

39. The objection that the departure from the bicameral system would fatally prejudice the standing and rights of this State, by reducing it below the level of all the others, is unworthy of serious consideration. If this be a tenable objection it might with equal force be urged that the great State of New South Wales has lowered its political status by reducing the number of members of its elective Legislative Assembly; or that because the province of Nova Scotia has retained the bicameral system it has a higher political status within the Dominion of Canada than the great and populous province of Ontario; or that because in the British North America Act the Imperial Parliament thought proper to bestow upon Quebec two Houses of Legislature and gave Ontario one only they were not originally intended to be and have not since been equal in political power and prestige as provinces of the Dominion. The fact, however, that the last-named Act established in one case a bicameral and in the other a single-chamber system certainly offers a sound reason for holding that whether (exclusive of the King's representative) a Legislature of a self-governing community consists of one House or of two Houses cannot affect the political status of such Legislature.

Reference to B.N.A. Act of 1867, ss. 91 to 95.

40. In the opinion of Ministers, the reference in the petition (paragraph 14 (*d*)) to the Federal veto or control over provincial legislation in Canada has no bearing whatever upon the matters now under consideration.

Historical reference to 13 & 14 Vict. c. 59.

41. In this connection it is historically interesting to note that prior to the passage of "The Australian Constitution Act, 1850" (13 & 14 Vict., c. 59) the Committee of the Privy Council for Trade and Plantations, strengthened by the addition of three distinguished legal experts, was called upon as a deliberative body to furnish a report. The report was drafted by Sir James Stephen and set out the lines on which the last-named Act was based. It recommended the establishment of Port Phillip as a separate colony. On the question of a single or bicameral Legislature it pronounced in the abstract strongly in favour of the latter. At the same time the single-chamber system held the field in New South Wales. Custom appeared to have attached the colonists to it. All, therefore, that could reasonably be done was "to leave to the Legislatures now to be established the power of amending their own constitutions by resolving either of these single Houses of Legislature into two Houses." The Legislatures should be entrusted "with the power of making any other amendments in their own constitution which time and experience may show to be requisite." At the same time no Act in any way enlarging, retrenching, or altering the constitution of that Legislature ought to be valid

until expressly confirmed by the Queen in Council. (Egerton's Short History of British Colonial Policy, edn. 1897, p. 314.)

It is significant to observe that so far back as the year 1849 it was recognised firstly that the setting up of a single or bicameral chamber system could not affect the grant or extent of power, and secondly that it was wise and prudent to leave the adoption of either system to the self-determination of the colonists as a matter of internal concern, subject to the reservation of the measure for Imperial approval.

42. The suggestion of the memorialists that "The Australian No States Constitution Act, 1907," recognises the continued existence of both Houses of Parliament of each State, and that the enactment of this Bill would be an alteration of the provisions of this Act, or that effect could not be given to it if the Legislative Council were abolished, is immediately refuted upon a perusal of the Act. The term used throughout is "Legislature of any State" forming part of the Commonwealth of Australia. The term "Legislature" must, it is maintained, have the meaning assigned to it in "The Colonial Laws Validity Act, 1865," i.e., the authority competent to make laws for the State. In subsections 1 and 2 of section 1 of the first-named Act references are made to "either House." The reference in subsection 2 is manifestly to either House which is elective, and cannot therefore refer to Queensland. The reference in subsection 1 is in the alternative, and would offer no difficulty of construction on the abolition of the Legislative Council. The reference in subsection 3 to both Houses of the Legislature of the State would also, it is maintained, constitute no legal difficulty in giving effect to the provisions of section 33 of 5 & 6 Vict. c. 76, because there is an alternative course therein provided for giving publicity to the Royal assent to a reserved Bill—viz., by message to Parliament or a proclamation.

The point raised by the memorialists with regard to this Act was referred to in the judgment of the Full Court in Taylor's case (1917 S.R. Queensland 208 at p. 237), but was apparently regarded as negligible by the High Court on appeal.

43. It is urged by the memorialists that "the question of a radical change in the State Constitution, established and working satisfactorily now for nearly 60 years, demands a broader justification than the ruthless act of any party temporarily in power. It is clearly an Imperial question calculated to affect the status of all Colonial Legislatures under what may become a Federated Empire."

So far as this objection is grounded upon allegations of fact it is sufficient to say that the allegations are not true.

It is not a fact historically that the bicameral system with a nominee chamber has worked satisfactorily in Queensland. An examination of our annals will show that there have been repeated conflicts between the Houses. The Legislative Council has, on numberless occasions and notwithstanding the decision of the Judicial Committee of the Privy Council, asserted an unwarranted control over money Bills. Every Government that has been returned to power pledged to reform has met with persistent hostility from this chamber. The existence

Answer to
memorial,
subpar. (a).

on our Statute Book of "*The Parliamentary Bills Referendum Act of 1908*" is irrefutable evidence of the necessity which existed to possess in the people an over-riding authority notwithstanding the rejection of Bills by the Legislative Council.

Again, it is not a fact that this Bill is the ruthless act of a party temporarily in power. This party has been in power continuously since 1915, and the history of the attempt to enact this Bill as a law is the history of a deliberate and strenuous campaign against the forces of reaction and entrenched vested interests.

The statement with which this objection concludes is also in the opinion of Ministers entirely unfounded. The question now in issue affects, in their opinion, neither any Imperial interest, in the sense in which that expression is used when the powers of self-governing States are under consideration, nor the status of any Colonial Legislature. The fact that some other State may be induced to follow the example of Queensland in ridding itself of a fetter on the popular will is not germane to the present inquiry.

And to
subpars. (b)
and (c).

44. The objection grounded on the proviso to Article 22 of the Order in Council of 6th June, 1859, is, it is conceived, sufficiently answered by the judicial decisions in Taylor's case and McCawley's case already adverted to, and the objection that the status of Queensland as a State of the Commonwealth would be fatally prejudiced is also dealt with in the same connection.

And to
subpar. (d).

45. The memorialists assert that "some revising chamber is necessary in order to obtain equity, harmony, and consecutiveness in legislation, as a single chamber, unbridled and acting before election heat has time to cool, is tempted to force measures through that are partisan, haphazard, and due to momentary impulse. No alternative proposal for a second chamber, whether elective or otherwise, has at any time been submitted to this Council by the Legislative Assembly."

So far as a second chamber claims to be a revising chamber, it must, it is conceived, also claim that it possesses those qualities and that settled habit of calm deliberation, judicial temper, and wide experience which eminently fit it to correct and clarify legislative proposals, or, in a word, that the revising chamber is never partisan. This may be a counsel of perfection for a Utopia. But the experience which Ministers of this Government have had of the Legislative Council is that it has willingly and even anxiously lent itself for party purposes as an instrument in the hands of the leaders of the opponents of the Government in the rejection or emasculation of salutary measures of reform. It has consistently acted as a powerful and often overwhelming addition to the strength of the forces opposed to Labour.

The further claim that the representative chamber is apt to be inexperienced, imprudent and reckless in the formulation and carriage of its proposals is equally without foundation in fact. The Government always commands the services of expert advisers both on legal, administrative and social questions. Mistakes in details could always be corrected. Errors in policy must be left, as always, to the criticism of experience.

The true safeguards against intemperate or unjust legislation are in the first place the responsibility of the elected member to his electorate, and in the second place the sense of honour, justice and prudence which is the shining mark of the genius of the British race, and has with the rarest exceptions, been conspicuously present in the actions of its deliberate assemblies.

The suggestion of the memorialists that it was the duty of the Legislative Assembly to submit to the Council some measure for the reform of that chamber is an admission that reform is necessary. Why, then, did the Council not propose it to the people at any time in the long period during which this measure has been a question of practical politics ?

46. The suggestion of the memorialists that " the abolition of the Legislative Council would remove all checks upon the dominant party for the time being in the Legislative Assembly, by referendum or otherwise, and that the people would be robbed of their right of appeal," is one which Ministers view with profound surprise as coming from these memorialists. And to subpar. (e).

" *The Parliamentary Bills Referendum Act of 1908* " was expressly directed against the conservative and reactionary tactics of the then members of the Legislative Council, the leaders of whom are now amongst these memorialists. Moreover, the memorialists and their friends, by their repeated refusals to accept the principles of the Popular Initiative and Referendum Bill, have themselves evinced in a conspicuous manner that they are stoutly opposed to the people possessing, by direct action, either a right to request legislation or to express their approval or disapproval of measures that have passed through Parliament.

But, in the opinion of Ministers, the true answer to this objection is that the effective check on unjust or immature legislation is the popular will expressed at the polls, when members seek re-election in confirmation of their conduct in Parliament.

47. The suggestion that by the abolition of the Legislative Council the judiciary or certain public officers would be placed at the mercy of the dominant party in a single-chamber legislature is one which it is surprising to find in a serious memorial of this character. It is such as one might expect to hear stormed from the hustings by an impetuous candidate, or issuing from a zealous opponent of the measure in the heat of Parliamentary debate. The true custodians of the public conscience in a self-governing State must always be the electors. The real safeguard against injustice on the part of a representative legislature is public reprobation, signified against the delinquents at the polls. Ministers have yet to learn that the position of the judiciary or of public officials in Ontario, British Columbia, or Manitoba is regarded as less secure than in Nova Scotia. And to sub. par. (f).

48. The objection grounded upon a consideration of " The Commonwealth of Australia Constitution Act " and " The Australian States Constitution Act, 1907," has elsewhere been dealt with. And to subpar. (g).

And to
subpar. (h).

49. As in the opinion of Ministers the adoption of a single-chamber legislature directly representing and responsible to the people, elected on a universal franchise in properly constituted electoral districts capable of readjustment as the growth and fluctuation of population may require, and forced to seek re-election at frequent intervals, is in no sense an undermining of constitutional safeguards, but on the contrary will serve in a marked degree to foster the political intelligence of the people and their chosen representatives and quicken the sense of public responsibility, it is not considered necessary to lengthen this paper by reference to the present world-wide turmoil.

Ministers are profoundly convinced that the way to the settled peace and prosperity of the community lies in the faithful discharge of duty in every department of the national life. Any body of persons which, from motives of *laissez faire* or self-interest, has had the power to impede the faithful discharge of duty should be shorn of that power.

And to
subpar. (i).

50. The memorialists allege that "the Legislative Council acts as the permanent co-trustee of the public safety and welfare." Surely this is an unfortunate analogy. In a self-governing community the people are *sui juris*—a status of political manhood has been attained—and there is no reason why all the rights and responsibilities of manhood should not be willingly, nay zealously, exercised and assumed on their behalf by those who act, or say they act, as trustees of those rights and responsibilities.

Ministers are of opinion that abundant evidence is afforded in this paper that the memorialists and those of their political colour have consistently and vigilantly opposed the popular will over a long course of years.

Defects of a
nominee
chamber.

51. Ministers moreover would urge that a nominee chamber, the members of which hold office for life, never does, and never can in the very nature of things, keep in touch with popular aims and aspirations. Their actions even when benevolent partake of the paternal, that is to say they make a grant to the people, not as of right but *ex gratia*. The people cannot be a suppliant to a nominee chamber. But when the people demand some reform which appears to affect vested (particularly moneyed) interests, no matter how just such demand may be, the strong temptation is always presented to members of such a Council to preserve intact interests in which they themselves are much concerned, by rejecting the demand.

Such a nominee chamber is democracy's strait-jacket, the thing which prevents it from doing what it wishes to do.

The citizens of a free community should not any longer be so hampered that in their desire for progress they must ask for concessions which may be delayed until they have lost their grace, or that they cannot claim rights which may be denied until extorted through fear, or that justice may be perverted, delayed or denied to them until it is grudgingly or churlishly given when it can no longer be withheld.

Reference
under 3 & 4
Wm. IV.
cap. 47 not
necessary.

52. In view of all the foregoing considerations, Ministers respectfully submit that no useful purpose would be served by referring the

question of the validity of the proposed Act to the Judicial Committee of the Privy Council for decision under the provisions of 3 & 4 Wm. IV. cap. 41.

Ministers humbly submit, moreover, that His Majesty could not with propriety be advised to refer the abstract question of law as to the validity of the proposed measure to the Judicial Committee of the Privy Council, as it is conceivable that the effect and validity of the Act might at some future time be brought before that Committee sitting as a Court of Appeal, because should such case actually arise the law on the matter would be pre-determined by the Committee in an extra-judicial proceeding. (*See Doutre, Constitution of Canada*, edn. 1880, page 348; *Todd, Parliamentary Government in the Colonies*, 2nd edn., page 842; *Harrison Moore, Constitution of the Commonwealth of Australia*, 2nd edn., page 209). Ministers desire to point out that, according to the shorthand notes of the application to the Judicial Committee for special leave to appeal in Taylor's case (which notes, although not officially reported, may be found in 1918 *State Reports Qld.*, page 194), Viscount Haldane and Lord Dunedin, although not expressing any opinion whatever on the merits of the case, apparently recognised (pages 196-7) that a reference properly instituted under 3 & 4 Wm. IV. cap. 41 should partake of the character of a litigation, with parties representing the various interests.

53. Assuming then that there exists no objection in law to the grant of the Royal Assent to this Bill, the question arises whether such assent ought to be withheld on any other ground.

The question considered apart from its legal aspect.

54. In the opinion of Ministers the principles of the Bill do not in any way impinge on Imperial interests. It is not inconsistent with obligations imposed upon His Majesty by Treaty. It does not, it is humbly submitted, prejudice His Majesty's prerogative or the rights of property of His Majesty's subjects not residing in the State, or the trade or shipping of the United Kingdom or its Dependencies. It is not repugnant to the law of England.

Imperial interests not involved.

55. In the opinion of Ministers this Bill is concerned merely with a matter of domestic politics over which this State from the date of separation from New South Wales has had full control.

It is a matter of internal concern.

56. The State of Queensland when it entered upon its career as a colony was granted responsible self-government, and when it entered the Commonwealth of Australia as an original State this status was formally recognised and declared to be intact.

The grant of responsible government.

This grant of power, so noble and so generous, was surely intended to be interpreted in an equally noble and generous spirit. The statutes and instruments which declare the grant were not intended to be suspiciously scrutinised to discover minute defects that might derogate from the fullness of the grant. To each generation in its turn is given the privilege and power to shape its own political destiny. Acting with a measure of sublime faith and prophetic vision which have been the astonishment of other colonising powers, the propounders of the idea of local self-government deemed it right and just that the nascent

States beyond the seas should, without severing the bond of Empire be encouraged to attain a height of social and political development to which organised communities of free men have a right to aspire. The basic principle is that self-government consists in the recognition of the fact that the government of a colony in its internal affairs is not a matter with which the Imperial Government will interfere. The policy for the last 50 years has been consistent. Even the strongest representations that the proposed policy of the self-governing State would be a departure from uniformity, or was in the highest degree unwise, have not induced the Imperial Government to interfere.

Imperial
policy
settled and
consistent.

57. The right of interference with or of disallowance of a proposed measure has, it is true, never been formally surrendered by His Majesty, but such right has been more and more sparingly exercised. While it is true that certain Bills have to be reserved, it is humbly submitted by Ministers that the matters so to be reserved relate to classes of subjects which, in their Imperial aspect, affect people and places outside the State which has proposed the legislation. This settled policy in regard to colonies possessing responsible government has been attended with the happiest results. Whilst continuing to pursue their independent course of progress and prosperity, these colonies have jealously maintained the Imperial ties, cemented alike by feeling and principle. In the passage of the years, the Imperial connection, based as it has been upon sympathy with colonial aspirations and modes of thought, has become more and more imposing and attractive.

Citation of
action
taken in
Newfound-
land case,
1898.

58. An instructive example of the policy adopted by the Imperial Government in relation to the internal affairs of communities possessing responsible government is found in the proceedings in 1898 relating to a petition by certain persons in Newfoundland for the disallowance of a certain Bill passed by the Legislature of that Colony. (*See* Keith on "Responsible Government in the Dominions," 1912 edition, vol. 2, pp. 1041 *et seq.*). The protest took the ground that the proposal embodied in the Bill had not been an issue at a recent general election—that the Bill was rushed through the Houses of Parliament without full consideration and opportunity for protest. It also appeared that the Minister who had been most active in pushing the Bill through the Legislature was the paid legal adviser of the person whom the Bill was designed to benefit; and he was compelled to resign from the Government. The Imperial Government declined to disallow the Act. In Professor Keith's view (*see* p. 1042 to 1047), the reasons for this course epitomize the precise duty of the Imperial Government in regard to Colonial Legislation, and while they add theoretically no new principle to those by which Secretaries of State had long been guided, they apply an old principle in circumstances which formerly would probably have been deemed to exclude the ordinary rules because of the manifest gross impropriety of the Act in question.

The following passages from the despatch of the Secretary of State are quoted, as they appear to be very appropriate to the present case:—

" 10. In so far as the demand for disallowance is based on criticism of the policy and details of the Act, I have already indicated that where no Imperial interests are involved, or unless the measure was so radically vicious as to reflect discredit on the Empire of which Newfoundland forms a part, it would be improper for Her Majesty's Government to intervene in what is essentially a matter of local finance, the policy of which is a matter for the Government and Legislature of the Colony.

" 11. But it is alleged, as a further reason for intervention, that though the subject was one of far-reaching consequence to the future of the Colony, no allusion to the contract was made in the speech from the Throne at the opening of the session of the Legislature, and that when it was brought before that body shortly after the beginning of the session, it was pushed hurriedly through both Houses before knowledge of the matter could have reached the voters, and without allowing due time for its consideration.

" 12. These charges have been dealt with by your Ministers in the Minute of Council already referred to. They are questions affecting the conduct of Ministers in the administration of business for which they are responsible to the Legislature, and if the members of the Legislature have failed to protect the interests and discharge the duties of their position they will have to answer for their failure to their constituents. The fact that the constituencies were not consulted on a measure of such importance might have furnished a reason for its rejection by the Upper Chamber, but would scarcely justify the Secretary of State in advising its disallowance, even if it were admitted as a general principle of constitutional government in Newfoundland that the Legislature has no right to entertain any measure of first importance without an immediate mandate from the electors.

" 13. Nor is the fact that I have been urged to advise the disallowance of the Act by petitions alleged to be signed by more than half of the registered electors of the Colony one which can be properly considered by Her Majesty's Government in this connection. The Act was passed by the Assembly, elected so recently as November, 1897, by an enormous majority, only five members out of a House of 36 voting against it, and in the Legislative Council, as I gather from the last paragraph of your dispatch of April 30, it was received with practical unanimity, only one member having spoken against it, and even he did not carry his opposition so far as to record his vote against the measure.

" 14. It is not the duty of Her Majesty's Government to attempt the task of deciding whether the action of the Legislature has been in accord with the opinion of the electorate. Even a Governor, who is to some extent in touch with local opinion, would be taking a serious step if, in response to petitions such as have been addressed to me, and against the advice of his Ministers, he refused to assent to a measure of local concern which had been duly passed by the Legislature; and if he failed to find other Ministers prepared to assume responsibility for his action, and able to secure the support of the Legislature, his position would become untenable. Any such step on the part of a Governor would have to be taken entirely on his own motion. It is essential that for every act of the Governor in local matters full responsibility should attach to a Ministry amenable to the Colonial Legislature.

" 15. In advising Her Majesty as to the exercise of her prerogative of disallowance, the Secretary of State has to consider the legislation submitted from a still more restricted point of view than the Governor.

" 16. That prerogative is a safeguard for the protection of those interests for which the Secretary of State is responsible to Her Majesty and to the Imperial Parliament. To advise its exercise in cases where only local interests are concerned would involve the Imperial Government in liability for matters of the control of which it has divested itself, and for which the Colony has accepted full responsibility.

* * * * *

“ 21. The considerations which preclude me from advising Her Majesty to disallow the Act apply equally to the alternative request, that I should defer tendering advice to Her Majesty in regard to it until the people of the Colony have had an opportunity of expressing their views upon the measure

* * * * *

“ 25. My action has throughout been governed solely by constitutional principles, on which I am bound to act, and I think it desirable that it should be made quite clear that, in accepting the privilege of self-government, the Colony has accepted the full responsibilities inseparable from that privilege, and that if the machinery it has provided for the work of legislation and administration has proved defective, or the persons to whom it has entrusted its destinies have failed to discharge their trust, they cannot look to Her Majesty's Government to supplement or remedy these defects, or to judge between them and their duly chosen representatives.”

Citation of
South
Australia
case, 1911.

59. A more recent declaration of the same policy is to be found in the despatch of the Secretary of State for the Colonies declining Imperial intervention on the occasion of the disputes between the two Houses of the State of South Australia on the Veto Bill in the year 1911. (*See*, for a short reference to the matter, Keith on “ Responsible Government,” edition 1912, pp. 629 and 1620, 1621.)

The settled
rule of non-
intervention
ought to be
applied to
the present
case.

60. The Newfoundland case is an instance of the sagacious application of a rule of settled policy to a case where the extraordinary and unparalleled character of the contract approved by the Act had already met with adverse criticism by the same Secretary of State in a published despatch, and where the circumstances attending the passage of the measure could be and were viewed by many in a sinister light. That rule of non-intervention should *à fortiori* be applied to the present case because—

- (a) The power to amend the Constitution of Queensland is expressly reserved to the Legislature of Queensland by Imperial Statutes and instruments.
- (b) Long before the accession of the Labour party to office the abolition of the Legislative Council had been a prominent plank in the Labour platform; and as such had for years been the source of persistent encomium in public journals attached to the Labour interest, and of equally persistent animadversion in public journals founded and conducted in the Conservative interest throughout Queensland.
- (c) When the Labour Government was returned to Parliament in 1915 with a majority of 18 in a Legislative Assembly of 72 members, this Bill was immediately introduced. Its principles were fully debated in the Assembly. The Bill was carried there. It was rejected by the Legislative Council.

In the next session (1916–1917) it was reintroduced and again carried in the Legislative Assembly and was again rejected by the Legislative Council.

A general election of members of the Legislative Assembly took place in 1918 and the Labour Government were returned to office with a majority of 24 (48 to 24) in an

Assembly of 72 members. At the meetings during that general election the principles of this Bill were fully and freely explained and advocated by Labour candidates, and were equally fully and freely attacked by the opposition candidates.

The confirmation of the Government in power with a largely increased majority was, and is justly considered to be, an approval by the people of the principles of this Bill and a reversal of any verdict supposed to be given by the referendum poll in 1917.

In the session of 1919-1920 this Bill was again introduced in the Legislative Assembly, fully debated and carried, but was again rejected by the Legislative Council.

In 1920 a general election was held and the Labour Government was again returned to power.

This Bill was again introduced into the Legislative Assembly and passed its second reading by a large majority, and the clause of the Bill declaring and giving effect to the abolition of the Legislative Council was carried by 51 to 15, or a majority of 36, representing in the electorates a majority of 87,374 out of 206,294 electors.

It was carried in the Legislative Council on the second reading by a majority of 18 (38 members only being present out of a House of 59).

It is manifest, therefore, that—

- (i) The principles of the Bill were discussed exhaustively both in the country and in the Legislature ;
 - (ii) The Bill was *not* rushed through the Legislature. It was a legislative proposal during five years before the chambers, was repeatedly mentioned in the Speech from the Throne, and was an issue at three general elections. Full consideration and opportunity for protest were afforded.
- (d) A Popular Initiative and Referendum Bill, having for its object the grant of power to the people of the State to initiate and approve or disapprove of legislation by direct and speedy means, was passed by the Assembly on repeated occasions, and was vehemently opposed and practically rejected on each occasion by the Legislative Council.
- (e) The attitude of the Legislative Council, from the session of 1915 onwards until a sufficient number of new members was appointed thereto so that the will of the people could be given effect to, has been shown to be partisan, hostile, and reactionary in the highest degree, in relation to all democratic proposals for the purpose of giving legislative effect to which the present Government were returned to and maintained in office.

- (f) The question of the constituents of the State Legislature, whether it should consist of a single chamber fully representing the people because returned by popular vote, or should consist of two chambers one of which is solely composed of nominees appointed for life, is a matter of domestic concern.

And finally because—

- (g) Any such intervention would involve a curtailment of power which would in the opinion of Ministers create a deplorable precedent, the consequences of which could not fail to have a far-reaching effect. The people of this great State have shown themselves to be devoted to the Throne and Empire, of which they are proud, and to the sacred cause of justice, liberty and freedom, and they would view with dismay the withholding of His Majesty's assent to this Bill. So signal a departure from the long-settled policy of the Imperial Government would, it is feared, be viewed as a denial in the gravest way of the right and privilege which this State, in common with all other communities within the Empire to whom responsible government is granted, has confidently deemed that it possessed and enjoyed—the right and privilege to manage and control its own affairs.

The Royal
Assent
prayed.

61. Ministers therefore humbly but confidently submit that this Bill should receive the Royal Assent.

EDWARD G. THEODORE,
Premier and Chief Secretary.

EXECUTIVE BUILDINGS,

BRISBANE,

1st December, 1921.

ENCLOSURE 6 IN No. 1.

RESOLUTIONS AGAINST THE CONSTITUTION ACT AMENDMENT ACT OF 1921 SUBMITTED TO THE GOVERNOR.

1. Resolution passed on 27th October by the Queensland Women's Electoral League:—

“That the strongest protest be forwarded to His Excellency, The Governor of Queensland, against the Government's proposal to abolish the Upper House, for the State of Queensland, and it is earnestly hoped that all legitimate means will be taken to defeat such an action.”

2. Resolutions passed on 29th October by a meeting of business men held under the auspices of the Brisbane Chamber of Commerce and the Brisbane Chamber of Manufactures:—

No. 1.—“In view of the seriousness of the position financially and commercially, the retarding of progress and the increased and increasing unemployment in the State, this meeting is of

opinion that every possible action should be taken to restore confidence, and the commercial and industrial community ask that the whole matter be referred to the people for consideration."

No. 2.—"That in the opinion of this meeting the Chamber of Commerce and Chamber of Manufactures have rendered a public service to the people of Queensland in sounding a necessary note of warning at a critical period; that the continued holding of office by a Government unsupported by a majority of the electors is contrary to the existence of Constitutional Government in Queensland and that the time has arrived when the Electors should have an opportunity of expressing their view at the ballot box. That copies of this motion be forwarded to the Premier, the Leader of the Country Party and the Leader of the Nationalist Party."

3. Resolution passed at public open-air meeting held at Clarence Corner, South Brisbane, on 3rd November:—

"That this meeting of electors, held at Clarence Corner, South Brisbane, protests against the Bill passed by the Legislative Assembly and the Legislative Council, for the abolition of the latter chamber, particularly in view of the fact that in 1917 at a Referendum taken for that purpose, the electors of Queensland by a majority of over 60,000 refused to accept a proposal for its abolition and requests the Chairman respectfully to communicate this resolution to His Excellency the Governor."

4. Resolution passed at meeting of electors of Kurilpa held at Davies Corner, West End, South Brisbane, on 4th November:—

"That this public meeting of electors of Kurilpa, held at Davies Corner, West End, on Tuesday, 8th November, instruct the Chairman of the meeting to forward to His Excellency, Sir Matthew Nathan (Governor of the State of Queensland), a protest against the action of the Government of Queensland, in passing a Bill to abolish the Legislative Council and that the Bill was passed by the Government, who has a majority of one and represents the minority of the electors of Queensland. Further, it has ignored the result of the vote on the Referendum in 1917, when by a majority of 60,000 the electors voted in favour of the retention of the Legislative Council."

5. Resolution passed at public meeting held at Wynnum South on 4th November:—

"That this public meeting of Logan electors held in the Wynnum South School of Arts, protest against the action of the State Government in passing a Bill for the abolition of the Legislative Council, particularly in view of the fact that the Government has only a majority of one, and also represents the minority of electors; and further, that in the year 1917 the electors of Queensland definitely decided by a majority of over 60,000 the retention of the Legislative Council."

6. Resolution passed at meeting of electors of Ipswich held on 7th November :—

“ That this meeting of electors held at Ipswich *protests* against the Bill for the abolition of the Upper Chamber, in view of the fact that in 1917 at a referendum taken for that purpose, the electors of Queensland by a majority of over 50,000 refused to accept a proposal for its abolition, and requests the Chairman respectfully to communicate this resolution to His Excellency the Governor.”

7. Resolution passed at monthly meeting of the National Council of Women of Queensland on 18th November :—

“ This meeting of the National Council of Women desires to protest against the abolition of the Upper House, in opposition to the distinct wish of the electors, as expressed by referendum in 1918, when a majority of over 60,000 declared in favour of a second chamber of legislation for the State.”

No. 2.

The Secretary of State to The Governor.

DOWNING STREET,
11th March, 1922.

SIR,

I have the honour to acknowledge the receipt of your despatch of 1st December last, forwarding for the signification of His Majesty's pleasure the reserved Bill of the Parliament of Queensland entitled “ An Act to amend the Constitution of Queensland by Abolishing the Legislative Council.”

The Petition and Memorial which accompanied your despatch were duly laid before the King, but it has not been found possible to advise His Majesty to accede to the prayer of the Petition or to the requests preferred in the Memorial, and I have it in Command from His Majesty to request that the Petitioners and the Memorialists may be informed accordingly.

After careful examination of all the circumstances, I cannot but regard the matter with which the Bill deals as essentially one for determination locally. The policy of the Bill being on this view one of purely local concern, it would not be in accordance with established constitutional principles that His Majesty's Advisers should intervene to prevent the Bill from becoming operative. I have had accordingly no alternative but to advise His Majesty to assent to the Bill. Copies of an Order of the King in Council dated the 3rd March formally declaring His Majesty's assent to the Bill are enclosed.

I have, etc.,

WINSTON S. CHURCHILL.

ENCLOSURE IN No. 2.

AT THE COURT AT BUCKINGHAM PALACE,

The 3rd day of March, 1922.

PRESENT :

THE KING'S MOST EXCELLENT MAJESTY.

LORD PRESIDENT.
LORD STEWARD.

LORD SOUTHBOROUGH.
MR. SRINIVASA SASTRI.

WHEREAS on the 5th day of November, 1921, the Governor of the State of Queensland (being one of the States constituting the Commonwealth of Australia) reserved a certain Bill passed by the Legislative Council and the House of Assembly of the said State, entitled "A Bill to amend the Constitution of Queensland by Abolishing the Legislative Council," for the signification of His Majesty's pleasure thereon :

And whereas the said Bill, so reserved as aforesaid has been laid before His Majesty in Council, and it is expedient that the said Bill should be assented to by His Majesty :

NOW, THEREFORE, His Majesty doth by this present Order, by and with the advice of His Majesty's Privy Council, declare his assent to the said Bill.

ALMERIC FITZROY.

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